Not a Marginal Issue: Mental health and the criminal justice system in Northern Ireland

A follow-up review of inspection recommendations

March 2012

Criminal Justice Inspection
Northern Ireland
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Contents

List of abbreviations

A&E	Accident and Emergency
ACPO	Association of Chief Police Officers
CAMHS	Child and Adolescent Mental Health Services
CBT	Cognitive Behavioural Therapy
CJB	Criminal Justice Board
CJI	Criminal Justice Inspection Northern Ireland
CPN	Community Psychiatric Nurse
CPS	Crown Prosecution Service
DHSSPS	Department of Health, Social Services and Public Safety
DoJ	Department of Justice
EMIS	Electronic Medical Information System
ETI	Education and Training Inspectorate
FMO	Forensic Medical Officer
GAIN	Guidelines and Audit Implementation Network
GP	General Practitioner
HMIP	Her Majesty's Inspectorate of Prisons
HSC	Health and Social Care
HSCB	Health and Social Care Board
HSCT	Health and Social Care Trust
JJC	Juvenile Justice Centre
JSD	Justice Strategy Division (in the DoJ)
MDO	Mentally Disordered Offender
MHLO	Mental Health Liaison Officer
Niche RMS	PSNI Records Management System provide by Niche Technology Inc
NICTS	Northern Ireland Courts and Tribunals Service
NIHE	Northern Ireland Housing Executive
NIPS	Northern Ireland Prison Service
NPIA	National Police Improvement Agency
PBNI	Probation Board for Northern Ireland
PD	Personality Disorder
PDNG	Personality Disorder Network Group
PHA	Public Health Agency
PoC	Programme of Care
PPS	Public Prosecution Service
PSNI	Police Service of Northern Ireland
PYOP	Priority Youth Offender Project
RIAT	Drugs and Alcohol Regional Initial Assessment Tool
RQIA	Regulation and Quality Improvement Authority
SEHSCT	South Eastern Health and Social Care Trust
YJA	Youth Justice Agency
YJAA	Youth Justice Agency Assessment tool

Chief Inspector's Foreword

In March 2010 Criminal Justice Inspection Northern Ireland (CJI) published a report into the treatment of people with mental health problems in the criminal justice system, starting with the police, moving through the prosecution to the courts and ending up with prisons and probation. The report – while noting some excellent practice – documented a range of deficiencies with current arrangements and highlighted the enormous challenges the treatment of people with mental health issues presented to the criminal justice agencies.

The report outlined a broad strategic direction for improving the treatment of people with mental health issues by the criminal justice system, comprising the need for earlier screening and assessment as people enter into the system, and offering the potential for diversion away from custodial care where possible and appropriate. For those who are imprisoned the objective was to improve the quality of care provided. The report notes that prisons are not therapeutic environments and generally make matters worse. We said that greater efforts should be made to manage the transition back into the community. Finally, the report made recommendations designed to change the overall approach for the management of people with mental health problems, including the requirement for greater cross-departmental collaboration between the Department of Health, Social Services and Public Safety (DHSSPS) and the Department of Justice (DoJ).

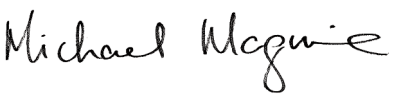
This inspection is a follow-up on progress made since the publication of the March 2010 report. The overall conclusion is that, while some important work has been undertaken, progress has been slow. The early assessment and screening of people with mental health problems remains difficult as they enter into the justice system, and there are still no clear rules about where people are to be taken when they are arrested or detained by the police. The successful Mentally Disordered Scheme highlighted in the previous report, has not been rolled-out across police custody suites, indeed there have been questions raised as to the level of service it can provide in the future.

There have been some improvements in the information shared between organisations; particularly the Police Service of Northern Ireland (PSNI) and the Public Prosecution Service (PPS), as well as the information given to the court about people with mental health issues. It is not possible to say however, whether this had made any difference to the extent to which people have been diverted away from custodial care. While recent inspections of custodial establishments (most recently Hydebank Wood and Ash House) have continued to raise questions about the quality of the prison regime in dealing with prisoners with mental health issues, the care and treatment of vulnerable prisoners has improved. There has however been little movement on the need for a secure facility in Northern Ireland for the most dangerous mentally disordered remand prisoners and there is unlikely to be so in the near future.

One of the most intractable problems identified in the previous report was the need for cross-departmental collaboration. Addressing the mental health needs of people in the criminal justice system is not only a problem for the DoJ and its agencies, but it requires joint working with Health Trusts, the Housing Executive and other bodies. A joint DoJ/DHSSPS Working Group has been established and undertaken some initial work in developing a more joined-up approach. It is early days, and to date has made limited impact on the ground. Inspectors are pleased to note however, the recent Programme for Government commitment to strengthen cross-departmental working to improve mental health inequalities.

Mental health continues to be a significant factor for the criminal justice system, both in terms of the numbers involved, and its impact on the criminal justice organisations. Mental health within the justice system is not a marginal issue, and work needs to continue both within and between justice organisations, and on a cross-departmental basis to ensure further improvements are made.

The inspection was undertaken by Dr Ian Cameron and Stephen Dolan of CJI. My thanks to all those who participated in the inspection process.



Dr Michael Maguire
Chief Inspector of Criminal Justice in Northern Ireland
March 2012

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Section 1

Follow-up Review

CHAPTER 1:

Introduction

1.1 CJI undertook a major thematic inspection of mental health issues in the criminal justice system in Northern Ireland, resulting in the publication of an inspection report in March 2010[1]. The report highlighted mental health as a significant factor for the criminal justice system both in terms of the high numbers of individuals involved, but also in terms of its impact on the criminal justice organisations.

1.2 The statistics throughout the United Kingdom are stark:

- 16% of people placed in custody meet one or more of the assessment criteria for mental disorder[2].
- 78% of male prisoners on remand and 50% of female prisoners on remand are personality disordered – seven times that of the general population[3].
- 64% of male and 50% of female sentenced prisoners have a personality disorder; 12 and 14 times the level in the general population respectively[4].
- 700 out of 850 prisoners in Maghaberry prison are on medication, mainly tranquillisers, and about 7% of the whole prison population are thought to be seriously mentally ill[5].
- 25% of those committed to the prison system every year would say they have been in touch with mental health services in the community[6].
- In the United Kingdom, 70% of sentenced prisoners suffer from two or more mental health problems[7].
- 20% of prisoners have four or five major mental health disorders[8].
- 7% of male and 14% of female sentenced prisoners have a psychotic disorder, 14 and 23 times the level in the general population respectively[9].
- 95% of young prisoners aged 15 to 21 suffer from a mental disorder. 80% suffer from at least two mental health problems. Nearly 10% of female sentenced young offenders reported already having been admitted to a mental hospital at some point[10].

There is a growing ageing population in Northern Ireland prisons. People aged

1 Not a Marginal Issue: Mental health and the criminal justice system in Northern Ireland, CJI, March 2010.
2 Ibid.
3 Ibid.
4 Reducing Re-offending by Ex-prisoners. Report by the Social Exclusion Unit, Office of the Deputy Prime Minister, July 2002.
5 Not a Marginal Issue: Mental health and the criminal justice system in Northern Ireland, CJI, March 2010.
6 Northern Ireland Prison Service evidence to Northern Ireland Assembly Committee for Justice, 9 June 2011.
7 Northern Ireland Assembly, Research and Library Service Paper - Prisoners and Mental Health. Paper 46/11 9 March 2010.
8 Ibid. Also Bromley Briefings Prison Factfile December 2010, Prison Reform Trust.
9 Reducing Re-offending by Ex-prisoners. Report by the Social Exclusion Unit. Office of the Deputy Prime Minister, July 2002.
10 Ibid.

over 60 are now the fastest growing age group in the prison population and dementia will become an increasing mental health issue.[11]

1.3 The Director of Adult Services for the South Eastern Health and Social Care Trust (SEHSCT) highlighted the demand within Northern Ireland's prisons to the Assembly Committee for Health, Social Services and Public Safety in the following terms:

"*Up to 5,000 prisoners, including sentenced and remand prisoners, use healthcare services each year. The following figures outline the high level of need. Some 1,000 prisoners will have a personality disorder; 130 prisoners will have psychosis; 750 will have some form of neurosis; 12 prisoners will have tried to kill themselves in the past seven days; 110 will have thought about that within the past seven days; around 160 prisoners will have tried to kill themselves in the past year; 712 people will have an addiction; and 545, separate to that, will also have an addiction, alcohol and drug problems*".[12]

1.4 The findings of the inspection report led Inspectors to conclude that mental health within the criminal justice system was not a marginal issue.

1.5 The original inspection followed the treatment of people with mental health problems through the criminal justice system, from their initial contact with the police, through prosecution to the courts, and ultimately with prisons and probation.

1.6 The police struggled to deal with mentally disordered people, often with inadequate support from the Health Service.

1.7 It found that there were a number of people with mental health problems in prison who, arguably, should not have been there, that this had resource implications for the Prison Service, and that there was a deficit of professional psychological and psychiatric input within the Northern Ireland Prison Service (NIPS) and the criminal justice system as a whole.

1.8 The historic lack of resourcing for mental health services in Northern Ireland, combined with an estimated 25% higher level of need than England and Wales, meant that mental health provision was deficient in Northern Ireland as a whole. This was exacerbated by the concentration of mental health issues in the offending population, and the report pointed out, it was in the wider public interest that they should receive special attention.

1.9 When people with mental health problems become involved with the criminal justice system, they cannot be properly or effectively dealt with by the criminal justice agencies alone. Mental health is an issue that requires more than a single department response and the report concluded that developing effective partnership arrangements between the criminal justice system and the Health Service is the right way forward, identified six main areas in

11 Northern Ireland Assembly, Research and Library Service Paper - Prisoners and Mental Health. Paper 46/11 9 March 2011.
12 Committee for Health, Social Services and Public Safety. Hansard. Inspection of Prison Healthcare: Hydebank Wood Young Offenders' Centre and Ash House Women's Prison. 19 October 2011.

which change needed to be made, and made 18 substantive recommendations to achieve these.

1.10 Mental health remains on the public and political agenda. The Justice Minister, in a written answer to the Northern Ireland Assembly in September 2011, said that it was his intention to improve the law on how people with mental illness were dealt with by the criminal justice system, and in recognition that mental health is a cross-departmental issue, went on to say that it was his preference to make these changes in conjunction with legislative changes being made by the DHSSPS in light of the Bamford Review.[13]

1.11 As an alternative criminal disposal, an offender suffering from a mental disorder can be made subject to a Hospital Order with restrictions. There are currently fewer restricted patients than at the time when the original inspection report was published. The position as at 31 August 2011 was as follows in Table 1 below. The figures in brackets represent the position in early 2010 when the original inspection report was published.

1.12 Mental health continues to be a significant element of expenditure for the Health and Social Care Trusts (HSCTs) in Northern Ireland, with expenditure on mental health Programmes of Care (PoC) increasing from nearly £191m in 2006-07 to £225m in 2009-10, an increase of 18.2%. This figure does not include learning disability PoC which also increased by 23% to £228m over the same period.[14]

1.13 The purpose of this report is to follow-up whether, and to what extent, the criminal justice agencies have implemented the recommendations made in the original report. As part of the fieldwork for this report Inspectors conducted an examination of relevant reports, reviews, statistical reports and

Table 1:

Restricted patients (including 14 conditionally discharged)	45 (52)
Male patients (including 12 conditionally discharged)	42 (48)
Female patients (including two conditionally discharged)	3 (4)
Restricted patients in Northern Ireland Medium Secure Unit (Shannon Clinic)	15 (18)
Restricted patients in other Northern Ireland hospitals	10 (16)
Restricted patients in state hospital Carstairs	5 (8)
Restricted patients in England	1 (0)

13 http://www.niassembly.gov.uk/qanda/2011mandate/writtenans/2011/110930.htm#12.
14 Mental Health Expenditure, Northern Ireland Assembly Research and Information Service Briefing Note. Paper 102/11, 28 September 2011.

undertook a series of follow-up meetings with various staff in:

- the DoJ Justice Strategy Division (JSD);
- the Northern Ireland Courts and Tribunals Service (NICTS);
- the NIPS;
- the Probation Board for Northern Ireland (PBNI);
- the PPS;
- the PSNI; and
- the Youth Justice Agency (YJA).

1.14 The following chapter looks at each of the recommendations, the agencies' responses and provides the Inspectors' assessment of progress.

1.15 The final chapter draws conclusions about the progress to date and stresses the need for work to continue in respect of mental health issues, on a cross-agency and cross-departmental basis, to address the issues raised in the original report.

CHAPTER 2:

Progress on recommendations

2.1 The original inspection report identified the following as the six main areas in which changes need to be made:

Main Area 1 - *Establish clear rules about where mentally disordered people are to be taken when they are arrested or detained by the police. The rules should distinguish between different sorts of cases and should be specific about the relevant place of safety for each category in each police district.*

Main Area 2 - *Make sure that mentally disordered people are properly assessed when they arrive at the place of safety. In police stations, this means extending the Mentally Disordered Offender (MDO) scheme to cover all the custody suites in Northern Ireland.*

Main Area 3 - *Make sure that the assessment (and any other available information) is properly recorded on the PSNI's information system (Niche) and is passed on as part of any file which goes to the Public Prosecution Service for Northern Ireland (PPS).*

Main Area 4 - *Make sure that the PPS brings any mental health issues to the attention of the Court at the earliest opportunity, so that the judge can consider it (and call for further expert advice, if necessary) before the case is heard.*

Main Area 5 - *Make sure the care of prisoners is based around the 'healthy prison' agenda which provides real and significant outcomes for prisoners. There is a need for on-going review of the quality of care provided by the Health Service and corrective action taken where necessary. In addition, there is a need for a local high secure hospital to which the most dangerous mentally disordered prisoners can be transferred for treatment.*

Main Area 6 - *Focus on the need for suitable accommodation to help mentally disordered offenders to make the transition back into the community with adequate supervision and aftercare.*

2.2 To achieve these, the report made 18 recommendations.

Recommendation 1

2.3 *The PSNI should introduce a training module on mental health based on an e-learning package currently being developed by The National Centre for Applied Learning Technologies, the National Police Improvement Agency and Association of Chief Police Officers (ACPO).*

PSNI Response:

2.4 *The PSNI is working with the Guidelines and Audit Implementation Network (GAIN) and the Royal College of Psychiatrists on*

the adaptation of an e-module (to be uploaded through the National Careers Advisory Service).

2.5 *The PSNI has held a series of one-day mental health training and is assisting RQIA* [Regulation and Quality Improvement Authority] *with an e-module for health professionals.*

2.6 *Steps are in place for the e-module to be uploaded by September 2011.*

Inspectors' Assessment:

2.7 This recommendation was made in response to the finding in the inspection report that there was a lack of clarity among the police about the powers under the Mental Health Order and that training in respect of mental health matters was limited. Inspectors were cognisant of not wishing to impose extensive training obligations on the PSNI but recognised the need for additional attention to mental health.

2.8 During this follow-up inspection CJI were advised that the PSNI was amending the ACPO e-learning mental health module to take account of the differing legislation in Northern Ireland. The package goes beyond those subject to the Mental Health Order and included individuals presenting to police with mental health or learning difficulties. When completed, the material will be sent to the National Police Improvement Agency (NPIA) to be uploaded on to the IT system. The original timescale has slipped from September 2011, and Inspectors were advised that the anticipated date is now likely to be towards the end of the 2011 calendar year.

2.9 Once the amended learning package is available, it is the PSNI's intention to prioritise the delivery to Mental Health Liaison Officers (MHLOs), District Trainers and Custody Trainers.

2.10 The PSNI advise that there are sessions in probation training covering mental health and that, when available, all students will complete the on-line training package.

2.11 Training and awareness of issues relating to mental health are important for Police Officers who regularly encounter people with mental health problems during the course of their duties, for example Custody Officers, Operational Officers and MHLOs. During the fieldwork for this follow-up inspection some Officers expressed the desire for increased training and awareness of mental health issues to allow them to better deal with people who, in many cases, can present to the PSNI in difficult circumstances and in a vulnerable condition.

2.12 Whilst Inspectors are aware of the work that has taken place by the PSNI towards implementing the recommendation, it has yet to be fully achieved. In view of the importance of this area, Inspectors would urge the PSNI to expedite the completion and roll-out of the mental health training module, and that MHLOs, Custody Sergeants and Operational Officers are prioritised as early recipients in the delivery programme.

2.13 Subsequent to the fieldwork, Inspectors have been advised by the PSNI that the delay in achieving this recommendation has been due to the delay by the GAIN

to develop the mental health guidance for Northern Ireland. As part of this process GAIN had developed an e-learning package which they will use to amend the ACPO guidance to Northern Ireland legislation. The delay has been outside the control of the PSNI. In light of the delay the PSNI advise that they have commenced the development of internal mental health training/suicide training to those key Officers. This will be developed using the guidance developed by GAIN outlining the roles and responsibilities of all the key agencies.

Status: Partly Achieved.

Recommendation 2

2.14 *The PSNI should finalise a protocol with the Health Service making clear the precise respective responsibilities of the two services, so that there is clarity about how mentally disordered persons are to be handled.*

PSNI Response:

2.15 *A working group consisting of representatives of the PSNI and the Health and Social Services Care Board are engaged in a series of meetings regarding protocols on places of safety, AWOL [absent without leave] patients and mental health assessments on private premises. In the course of this work, opportunities for further collaboration have been identified, notably a protocol in relation to people ingesting substances.*

2.16 *The aim of this GAIN-funded audit is to produce draft guidelines and a framework for dealing with future legislation changes by September 2011.*

2.17 *Steps are in place to achieve the recommendation by September 2011.*

Inspectors' Assessment:

2.18 Inspectors were advised that the PSNI were working with the Health and Social Care Board (HSCB) to consider a range of issues, one of which was the protocol referred to in this recommendation. Much of the emphasis has been on obtaining the views of Operational Officers, for example Custody Officers, and Forensic Medical Officers (FMOs). As a result of this work opportunities for further joint work have been identified. Also considered relevant is the application of the corporate manslaughter provisions to custody suites, given the PSNI's potential liability during the 48 hours immediately post-release from custody.

2.19 During the fieldwork Inspectors were advised that the PSNI aimed to have this work completed, i.e. the production of draft guidelines and a framework for dealing with future legislation, by September 2011. While care pathways are being developed, a wide range of data collection is required to inform the process. As a result, Inspectors were advised that the timescale for the completion of the protocol had been put back, that the protocols could not be developed until the guidance was complete, and that the guidance would be available from October 2011. The projected date for completion of the protocol is now the end of the 2011-12 financial year.

2.20 The inspection report highlighted the need to build a better understanding between the PSNI and the Health

Service around issues involving mentally disordered persons. The report acknowledged that some tension between the two services was unavoidable because of the competing pressures faced by both. In the current economic climate these pressures will inevitably increase, and Inspectors would again urge the PSNI, in conjunction with its partners in the Health Service, to finalise and publish the protocol for the benefit of those mentally disordered people who come into contact with the criminal justice system, and for the front-line service-deliverers in both organisations.

2.21 Subsequent to the fieldwork, Inspectors have been advised by the PSNI that the guidance has been developed and is published clearly outlining the roles. However, the protocols for each specific Trust have not been developed following publication of the guidance. The PSNI stress this is outside of its control as the HSCB is taking this forward, as only it can designate 'places of safety' according to the legislation, and that the PSNI has taken this recommendation as far as it can. Whilst Inspectors acknowledge that work has taken place, and is continuing, in respect of the protocol, and that the protocol cannot be finalised by the PSNI alone, the protocol has not been finalised and therefore the recommendation cannot be assessed as having been achieved.

Status: Not Achieved.

Recommendation 3

2.22 *The PSNI should ensure that Custody Officers complete a mental disorder warning on Niche RMS for those detainees presenting with a mental health condition.*

PSNI Response:

2.23 *At the PSNI's request, Niche RMS has mental health and learning disability 'flags' and related qualitative fields. Recommendation has been achieved.*

Inspectors' Assessment:

2.24 Inspectors were advised that a system was in operation for Custody Officers to complete a mental disorder 'of interest' warning on Niche for those detainees presenting with a mental health condition. The same facility is available to other Officers who encounter people with mental health difficulties during the course of their operational duties.

2.25 Niche has several methods for advising users of important or relevant information about an individual on the system. One is by way of a specific warning 'flag' whereby the police user can select an option from the drop-down menu and the selected category will appear on the screen beside a 'flag'. Inspectors were given a demonstration of this function however, there is no warning flag category on the menu of options for 'mental health'.

2.26 An alternative method is the 'of interest' category where the Custody Sergeant, or other police user, can select categories from a drop-down menu which appears on screen indicated, not by a flag but, by an exclamation mark (!), and relevant menu choices include: self-harm; mental disorder; drugs; suicidal; vulnerable person; and vulnerable victim.

2.27 It is also possible to enter free-text information and Inspectors were given an example where the free-text information contained details of contact

information in the relevant HSCT for an individual with mental health problems, which Officers could contact in the event of an incident or the person coming into contact with the police.

2.28 This is valuable information which is available to Custody Sergeants and Operational Officers which can assist Officers in identifying mental health problems, or other relevant information, in people they are dealing with. The Custody Sergeants that Inspectors spoke to were aware of the system and advised that they updated it accordingly for those detainees presenting with a mental health condition, and when this had been diagnosed by a Community Psychiatric Nurse (CPN) or FMO.

2.29 However whilst this information was completed by police, it was available to police only. It was not possible to transfer the information to other criminal justice agencies, for example, the PPS, through Causeway (this is relevant to Recommendation 8 illustrated later in this report).

2.30 The PSNI recognised this as an issue, both in terms of the electronic transfer of the information through Causeway, but also the potential data protection and wider implications of the information transfer with other agencies. The PSNI had received legal advice that this information could be shared with the other criminal justice agencies but under European Court of Human Rights law would have to be dealt with on a case-by-case basis.

2.31 The issue was discussed at the Criminal Justice Board (CJB) Mental Health Sub-Group and concerns were expressed that the 'flags' and associated information could be problematic, for instance they could be prejudicial, give an incomplete picture, be open to abuse, and, without delineated pathways, would not prevent too many people with mental disorders or learning difficulties entering the criminal justice system. The DoJ undertook to contact Causeway regarding the technicalities and costs involved in enabling access to the 'flags' by other criminal justice organisations. At the time of writing Inspectors were aware that an initial meeting had taken place involving Causeway and the relevant criminal justice organisations currently linked to Causeway (the NICTS, PPS, PSNI and the NIPS) to discuss the logistics of linking and sharing the information, the purpose for and context within which it would be used, and the related legal issues, most notably data protection.

2.32 A Joint Special Measures Action Group has also been established, chaired by a PPS Assistant Director, and attended by PSNI and PPS representatives. The Terms of Reference include reviewing processes to ensure accurate and timely provision of information from the PSNI, specifically regarding special measures, and the identification of special needs/vulnerabilities/requirement for special measures. The flagging of any vulnerabilities regarding mental health/capacity issues in relation to victims, witnesses and offenders, fall within the remit of this group, and will be addressed as part of its work.

2.33 The specifics of this recommendation have been achieved by the PSNI, i.e. that Custody Officers complete a mental disorder warning on Niche RMS for those detainees presenting with a mental health condition. However, a lot more

work is required by the criminal justice system to address the wider issues of the effective transfer and information-sharing among the criminal justice agencies. Notwithstanding the contribution that can be made by the Joint Special Measures Action Group, Inspectors consider the CJB Mental Health Sub-Group to be the most appropriate vehicle to take this forward across the wider criminal justice system, and the Sub-Group should continue to drive and co-ordinate this cross-agency work and keep the CJB advised of developments.

Status: Achieved.

Recommendation 4

2.34 *The Mentally Disordered Offender (MDO) scheme should be extended to all custody suites in Northern Ireland.*

PSNI Response:

2.35 *This recommendation has been overtaken by the integration of the MDO scheme within an unscheduled care service, which conducts risk assessments at Belfast Trust Accident and Emergency Departments (A&Es)/Musgrave Street on request.*

2.36 *The working group mentioned at Recommendation 2 is evaluating the unscheduled care service and will take into account the outcome of an ongoing review of custody provision in considering the potential to strengthen/roll out the service beyond Belfast.*

Inspectors' Assessment:

2.37 In the initial inspection report, CJI Inspectors highlighted their highly positive assessment of the MDO Scheme and expressed surprise when they discovered that there was some uncertainty about the future of the Scheme, and that it would possibly be absorbed into community psychiatric nursing.

2.38 Inspectors spoke to Custody Sergeants as part of the fieldwork for this follow-up review and, again, received very positive feedback about the role of the CPNs. The only negative comments were in relation to their potential unavailability at night and at weekends, when Custody Officers often had to deal with difficult cases.

2.39 The CPNs had a good knowledge of many of the people with mental health issues who were regular attendees at the Belfast custody suites. They had access to the Trust IT systems, General Practitioners (GPs) in the community and could access healthcare information relevant to the person concerned. In addition, CPNs had links with Hydebank Wood and Maghaberry prisons and could make recommendations to the prison healthcare staff if the detainee was to be remanded in custody. Inspectors viewed this as a good example of an effective information-sharing service which is joined-up across different departments and criminal justice agencies.

2.40 The MDO Scheme[15] referred to in the original inspection report had been integrated within an unscheduled care service which covers the Belfast Trust's A&E Departments and the Belfast PSNI custody suites on request.

2.41 This recommendation was discussed at the CJB Mental Health Sub-Group

15 The MDO Scheme is not a PSNI function. The Scheme is funded and staffed by the Belfast Health and Social Care Trust.

where the HSCB advised that as well as being unaffordable, the recommendation has been overtaken by the integration of the former MDO Scheme within an unscheduled care service. The HSCB also advised that having nurses on-site every day had been an inefficient use of resources as the work demands were greater after normal working hours. The Sub-Group was advised that the HSCB wanted to examine how well the revised approach was working relative to the previous one and to consider how best the new model could be rolled-out to other areas, and, as not all Trusts had an unscheduled care team, this may not be straightforward or cost-effective.

2.42 The PSNI was involved in the evaluation of the unscheduled care service which would take into account the outcome of the ongoing review of custody provision in considering the potential to strengthen/roll-out the service beyond Belfast.

2.43 The unscheduled care service that is currently provided in Belfast (formerly the MDO Scheme) is the subject of evaluation before any decision about whether to continue and/or extend it beyond Belfast. Any provision of this service will be a healthcare decision and is therefore outside the statutory remit of CJI to inspect. However at the time of writing, there was no provision of this healthcare service to PSNI custody suites outside Belfast and so the recommendation can be assessed as 'not achieved'.

2.44 In light of the findings of the original inspection report, the positive feedback from Custody Sergeants, the information and medical history available to the CPNs, and the issues and risks surrounding people with mental health issues being held in custody, Inspectors fail to understand why this service continues to have an uncertain future. Whilst Inspectors are aware that the Musgrave Street model may have had its limitations, nothing has been put in place to replace it on a Northern Ireland-wide basis. The recently published Prison Review Report[16] also expressed disappointment that the scheme had not been extended beyond Belfast. The PSNI project to review the delivery of custody is not scheduled to report until early 2013, three years from the date of the original CJI recommendation and, although it is not clear what the timescale is for the HSCB evaluation of its unscheduled care service, it would appear that there is unlikely to be further progress in respect of this recommendation until at least March 2013.

2.45 As a result of this, and the cross-departmental nature of the issue, Inspectors would urge the Justice Minister to review developments within the DoJ and raise the matter with his counterpart in the DHSSPS.

Status: Not Achieved.

Recommendation 5

2.46 *The Northern Ireland Court Service (NICTS) should arrange for judges to have access to expert advice in interpreting psychiatric reports and handling cases which involve mental health issues.*

NICTS Response:

2.47 *Having considered this further, the Judiciary are content that they have access to expert advice and reports commissioned by the*

16 Review of the Northern Ireland Prison Service. Conditions, management and oversight of all prisons. Prison Review Team. Final Report October 2011.

parties involved in a case as required. If necessary the doctors or professionals who provided the expert reports can be (and are) called to give evidence in relation to their report; explain their findings; and assist the court further.

DoJ Response:

2.48 *The NICTS already facilitates access to expert advice as required; and the NICTS do consider whether protocols with relevant bodies would be beneficial. Recommendation is in place.*

Inspectors' Assessment:

2.49 The Lord Chief Justice's office has advised that the Judiciary are content that where a Judge has an issue regarding the interpretation of a report, the system which is already in place is sufficient, and that the introduction of this recommendation could raise issues of independence. Where a Judge has an issue about the interpretation of reports s/he simply calls, or recalls, the witness to give evidence.

2.50 Judicial matters are not within the statutory remit of CJI Inspectors and so this recommendation is not being pursued.

Recommendation 6

2.51 *Where material issues of mental health are raised by the Public Prosecution Service for Northern Ireland (PPS) or other advisers, Judges should hold preliminary hearings to establish the mental state of the defendant.*

NICTS Response:

2.52 *Having considered this further the NICTS are content that the systems in place provide for early identification and court intervention if a mental health issue is identified by the parties (The Mental Health (NI) Order 1986 applies). NICTS staff continue to proactively seek information on all aspects of a case, and routinely refer matters to the court to consider via review hearings, in conjunction with the PPS, PSNI, PBNI and defence solicitors.*

DoJ Response:

2.53 *The NICTS liaises with PPS/defence solicitors/statutory agencies regarding early identification of mental health issues in the trial process, and keep judiciary appraised throughout to enable early intervention through preliminary hearings. Recommendation has been achieved.*

Inspectors' Assessment:

2.54 The Lord Chief Justice's office advised Inspectors that the Judiciary are content that the system which is in place provides for early identification of issues relating to mental health. The courts routinely deal with fitness to plead/fitness to be tried issues at the pre-trial stage, and the system which is presently in place is sufficient.

2.55 This recommendation is not being pursued as judicial matters are outside the statutory remit of CJI.

Recommendation 7

2.56 *The PPS Code for Prosecutors should devote more space to questions of fitness to plead and possible non-responsibility by virtue of mental incapacity or mental disorder.*

PPS Response:

2.57 *The PPS Code for Prosecutors is currently being revised. A key priority in the revision will be to devote more space to the questions of fitness to plead and possible non-responsibility by virtue of mental incapacity or mental disorder.*

2.58 *Consideration will also be given to whether these issues warrant the production of a separate PPS document, in addition to greater space being set aside in the PPS Code for Prosecutors. The timescale for any such revised Code for Prosecutors and/or separate document is Autumn 2011.*

Inspectors' Assessment:

2.59 The revision to the PPS Code for Prosecutors has been drafted but finalisation has been delayed in order for the Code to reflect the most up-to-date position in three areas considered important by the PPS, namely services to victims and witnesses in the light of the recent publication by CJI on victims and witnesses; the PPS relationship with the Attorney General pending the outcome of the proposed consultation exercise on governance and accountability; and mental capacity issues to reflect any change in position brought about by the mental capacity legislation. In addition there is a new Director of Public Prosecutions, who at the time of the inspection fieldwork had yet to take up post, and the PPS considered it appropriate to afford the new Director an opportunity to review the revised PPS Code for Prosecutors before issue.

2.60 Inspectors have been provided with a draft of the proposed amendments to the PPS Code for Prosecutors which include references to mental health issues in the context of the evidential test; the public interest test; diversionary options; disclosure; fitness to be tried; disposals; giving of reasons; victims and witnesses; special measures; sentencing; dangerousness and inter-agency working.

2.61 The PPS has advised that the PPS Code for Prosecutors was not necessarily the correct place for a full and detailed exposition on issues relating to mental capacity. It is the intention of the PPS to develop a specific guidance document in relation to victims, witnesses and offenders with mental capacity issues, similar to the approach taken by the Crown Prosecution Service (CPS) in England and Wales, i.e. the CPS Code for Crown Prosecutors refers generally to the test for prosecution but this is supplemented by the Director's legal guidance on mentally disordered offenders. However, the PPS has advised that any such guidance will await the outcome of any changes brought about by the proposed mental capacity legislation.

2.62 The PPS has redrafted its Code for Prosecutors in the context of this recommendation and, as outlined above, has devoted more space to questions of fitness to plead and possible non-responsibility by virtue of mental incapacity or mental disorder. In addition the PPS are considering the development of a separate guidance document in relation to victims, witnesses and offenders with mental

capacity issues, and Inspectors would view this as a positive initiative which will provide additional clarity and focus on mental health issues for Prosecutors and decision-makers within the PPS. Inspectors understand the PPS rationale for wanting to await the outcome of the proposed mental health legislation, however, this is not likely to be completed in the short-term[17] and Inspectors would encourage the PPS to action this recommendation as soon as practicable. Inspectors acknowledge that work has taken place in respect of the specific recommendation, and the wider issue of specific guidance is under active consideration.

2.63 Subsequent to the fieldwork Inspectors have been advised by the PPS that a meeting took place with the Director of Public Prosecutions on 19 December 2011 in relation to the outstanding revisions required to the new Code for Prosecutors, and the Director accepted that the Code be amended to include reference to mental health issues. The PPS intend to publish the revised Code for Prosecutors by April 2012.

Status: Partly Achieved.

Recommendation 8

2.64 *The PSNI should bring mental health issues that might affect the conduct of a case to the attention of the PPS at the earliest opportunity.*

PSNI Response:

2.65 *At present, where a witness or offender has mental health problems, the PSNI brings this to the attention of PPS as part of case progression, for example, in relation to prosecutorial decisions, bail applications and consideration of the mens rea of a defendant at the review of a charge.*

2.66 *DoJ Justice Strategy Division to contact Causeway regarding technicalities/costs involved in enabling access to new Niche mental health and learning disability 'flags' by other criminal justice organisations (CJOs).*

2.67 *The DoJ response makes it clear that the Causeway aspects cannot be progressed until data-sharing legalities have been clarified.*

Inspectors' Assessment:

2.68 The PSNI is linking this recommendation to the matters discussed earlier in respect of Recommendation 3. When the work is completed to address the wider data protection issues associated with the transfer of this information to other criminal justice agencies, and specifically to the PPS, and the technical issues surrounding transfer through Causeway, then it will assist the PSNI in bringing mental health, and other relevant issues, that might affect the conduct of the case to the attention of the PPS.

2.69 As regards current practice, Inspectors were advised that in cases where there were serious mental health, or other relevant or complex issues, the PSNI Investigating Officer could speak directly to the PPS about the specifics of the case. There was also the opportunity for Officers to raise relevant mental health problems at an early stage with the PPS by way of prosecutorial advice.

17 The Committee for Health, Social Services and Public Safety was advised by DHSSPS officials that the Bill could not be enacted until 2013 at the earliest, as more time would be needed to deliver what will be hugely complex legislation. NIA Hansard, 5 October 2011.

Inspectors were not provided with any PSNI instructions or guidance to Officers covering this area.

2.70 Inspectors were also advised that there were free-text boxes in the case file outline and this was the mechanism where police Investigating Officers would be expected to highlight any mental health issues for the attention of the PPS. Inspectors were informed that Officers had been instructed to complete this section of the case file if they were aware that there were relevant mental health issues, and this information should be contained on the electronic case files when they are sent through Causeway to the PPS, although copies of the relevant instructions have not been provided to Inspectors.

2.71 Inspectors were further advised that the PSNI was reliant on Investigating Officers highlighting issues of mental health to the PPS, by direct contact or on the prosecution case file, when they became apparent, which in many cases could be at the early stages of an investigation, for example at time of offence, custody or interview. However some doubts were raised by Officers about how these procedures worked operationally, and during the fieldwork Inspectors were advised that in the normal course of events the PPS were usually made aware of a defendant's mental health background through the defence Solicitor, and that the key issue from a wider prosecution perspective was one of whether the defendant was deemed fit to plead. Although some Officers advised Inspectors that more experienced police would be more likely to bring these matters to the attention of the PPS.

2.72 Subsequent to the fieldwork Inspectors have been advised by the PSNI that a new format of the 'summary case file' is being trialled as part of the Gatekeeper Process[18]. The new format consists of a standard pro-forma summary file which contains an area regarding the defendant's vulnerabilities. This ensures there will be more consistency with Investigating Officers when completing the outline of the case. The gatekeeper role will also ensure consistency of approach.

2.73 The PPS view was that the current arrangements were operating satisfactorily. Inspectors were advised that in practice the PPS received this information from the PSNI in a number of ways; the PSNI is required to complete the 'Particular Needs' field on the prosecution file, although, on occasions this is not done. Alternatively, or as a supplementary measure, the information can be provided in the 'Outline of Case' section, at bail hearings, at screening of charges/first remand stage, at any consultation/discussion and in general contact about the case. In the more serious cases there is likely to be additional communication between the PPS and PSNI at the charge and bail stages of the case and there is additional opportunity, where relevant, for issues regarding mental capacity to be discussed.

2.74 Custody Sergeants complete a risk assessment for all arrested people who are taken to a PSNI custody suite and this form was recently amended to contain additional questions regarding the person's mental health. This assists

18 The Gatekeeper Process comprises a team of dedicated Inspectors whose role is to review all criminal investigations where an arrest has been made/person has attended voluntarily after interview – for guidance as to the most appropriate method of disposal.

the Custody Sergeants to identify information and risk factors relevant to the person's period of detention in custody or more generally. This form is not transferred to the PPS as part of the case file and Inspectors would see the transfer of the risk assessment to the PPS as an opportunity to provide Prosecutors with valuable information which could identify mental health or other vulnerability issues that might affect the conduct of the case. Inspectors would suggest that the PSNI and the PPS should examine this issue further as part of the wider work under Causeway as outlined above under Recommendation 3, or, alternatively, through the Joint Special Measures Action Group.

2.75 As described above there are a number of mechanisms in place to allow police Investigating Officers to bring mental health issues that might affect the conduct of a case to the attention of PPS Prosecutors at an early stage, and these existing arrangements will be improved when the issues around the transfer of the information through Causeway have been resolved. So, while the mechanisms are in place, it is less clear if they are being followed by Investigating Officers on every relevant occasion, and whilst Inspectors would assess this recommendation as being 'achieved', the PSNI should closely monitor the situation, in conjunction with the PPS, to ensure the arrangements are working effectively in practice.

Status: Achieved.

Recommendation 9

2.76 *The PPS should be pro-active in flagging up for the Courts mental health issues that might affect the conduct of a case.*

PPS Response:

2.77 *The PPS liaises closely with the NICTS, through review hearings and case progression officers, to ensure case progress is effectively managed.*

2.78 *While the PPS usually becomes aware of mental health issues through the defence, it flags up such issues for the Court when appropriate.*

2.79 *Once secured, access to the new Niche mental health and learning disability 'flags' may enable the PPS to be more pro-active in flagging up cases.*

2.80 *On the general point of ensuring that the PPS brings any mental health issues to the attention of the court the Acting Deputy Director's experience is that once it has been identified that an accused person has or may have mental health issues the PPS will, as necessary, bring the matter to the court's attention. Reinforcement of the necessity to do this will take place as part of the PPS staff awareness training when the revised PPS Code for Prosecutors is published.*

Inspectors' Assessment:

2.81 It is the view of the PPS that the primary duty in terms of 'flagging' mental capacity issues relating to a defendant lies with the defence, although where any relevant information is known to the PSNI, the PPS would expect to be informed at the earliest stage possible. This is important information for the PPS to ensure that a defendant's right to a fair trial is safeguarded. The fact and degree of any mental incapacity may be relevant for example to the extent of

bail conditions, capacity to form *mens rea*/intent, admissibility of evidence of admission/confession to an offence, whether an appropriate adult was required/present, disclosure issues, and case management issues, for example the length of time for which a defendant can give evidence.

2.82 The PPS would not always depend on either the PSNI or the defence to provide information about mental capacity, and Inspectors were advised that Prosecutors would be alert to these types of issues, and were given an example where a Prosecutor identified issues from the case file and contacted the defence to highlight concerns in relation to the mental capacity of their client.

2.83 The PPS is currently commissioning training for Prosecutors in relation to better understanding of mental capacity issues for witnesses and defendants, and have a dedicated intranet site containing information and guidance about mental capacity.

2.84 The PPS would consider that the system is operating effectively in protecting the proper interests of defendants, although a more streamlined and consistent exchange of information could improve matters. This is not presently included within the Terms of Reference of the Joint Special Measures Action Group, as referred to at Recommendation 3, although it raises similar IT issues and so the PPS propose to table it for inclusion at the next meeting.

2.85 It would be the assessment of Inspectors that the PPS is pro-active in making the courts aware where the mental health of the defendant or witnesses might affect the conduct of a case, and there is potential for this to be further improved when the effective transfer and sharing of information among the criminal justice agencies, as discussed above at Recommendation 3, has been addressed.

Status: Achieved.

Recommendation 10

2.86 *The Probation Board for Northern Ireland (PBNI) should be granted more time to prepare Pre-Sentence Reports (PSRs) in cases which involve difficult mental health issues.*

PBNI Response:

2.87 *The PBNI has agreed with the Judiciary that in cases where mental health/learning disability issues are identified more time will be granted for PSR preparation. Case-by-case arrangements are in place with the courts to facilitate PBNI accessing their own forensic psychological assessments or other specialist assessments, and to present a treatment and management plan to the Court to assist sentencing.*

2.88 *On average, an additional four to six weeks are granted for the preparation of specialist assessments where mental health/learning disability issues have been identified. These arrangements are reviewed at regular meetings with sentencers (approximately every six months).*

DoJ Response:

2.89 *Arrangements are in place to facilitate PBNI in accessing its own forensic psychological or other assessments and to present a treatment and management plan to the*

court to assist sentencing. Meetings take place with sentencers every six months to review these arrangements. Inputs to the Judicial Studies Board are also in place. Recommendation has been achieved.

Inspectors' Assessment:

2.90 The Probation Board has agreed with the NICTS and the Judiciary that in cases where there are difficult mental health issues, that additional time will be granted to allow the preparation of Pre-Sentence Reports.

2.91 These arrangements are kept under regular review by the Probation Board[19] and are discussed with the NICTS and sentencers at regular meetings. Cases are considered on an individual basis however, on average, an additional four to six weeks are granted for completion of the Pre-Sentence Report where there are significant or difficult mental health issues, learning disability or personality disorder, although in very serious or complex cases the time can be much longer. The additional time is to allow consultation with PBNI Psychological Services, and then either to complete a psychological assessment or refer to other specialist services for assessments which can assist the court with sentencing.

2.92 For the calendar year to May 2011, 33% (211) of the referrals made by Probation Officers to PBNI's Psychology Department related to Pre-Sentence Reports, of these 9% related to learning disability, 52% related to mental health issues such as depression or personality disorder, 18% related to Probation Supervision and Offending Behaviour Programmes and 21% concerned risk assessments.

2.93 Inspectors would assess this recommendation as having been 'achieved'.

Status: Achieved.

Recommendation 11

2.94 *Assess the need for a local high secure hospital to which the most dangerous mentally disordered remand prisoners can be transferred for medical treatment.*

DoJ Response:

2.95 *The need for local high secure care for mentally disordered remand prisoners is recognised, but a separate facility is not feasible, given the substantial and significant resources required, which may not be immediately realisable, and the limited demand for places.*

2.96 *Consideration has been given to the options included in the DHSSPS discussion paper. These are being discussed further by the Sub-Group to identify a way forward.*

Inspectors' Assessment:

2.97 This recommendation has been considered by the CJB Mental Health Sub-Group. At a meeting in March 2011 the Chair advised that while the need for a local high secure facility for remand prisoners was recognised, a separate facility was not feasible, given the substantial and significant resources required, which may not be immediately

19 A recent Inspection on pre-sentence reports found the PBNI to provide high quality and timely PSRs and that the quality control systems in PBNI were of a high standard. The quality of the PSRs produced by PBNI were held in high regard by the courts. Pre-sentence Reports. Criminal Justice Inspection Northern Ireland. June 2011.

realisable, and the limited demand for places – this was assessed as typically one new case presenting every 18 months.

2.98 The Sub-Group discussed the viability of accommodating these cases within Shannon Clinic, and, while this may not require significant additional resourcing, the Belfast HSCT expressed concerns that this could change the fundamental nature of the clinic and could potentially affect the facilitation of prisoners at the state hospital, Carstairs.

2.99 A DHSSPS paper was presented to the meeting outlining a number of potential options, *viz*: prison healthcare staff managing the patients in a secure prison environment and encouraging compliance and treatment on a voluntary basis; enhance treatment in Shannon Clinic to manage remand cases; the provision of a local high secure unit, and; legislative change to facilitate (a) transfers to Great Britain and (b) compulsory treatment under Northern Ireland Mental Health legislation in prison.

2.100 The CJB Mental Health Sub-Group agreed that in preparation for a more detailed discussion on this issue at the next meeting that the DoJ JSD would consider the options presented further and explore the potential for additional options.

2.101 The situation remains the same as at the time of the initial inspection. The most dangerous mentally disordered sentenced offenders can be sent to the state hospital at Carstairs, or occasionally to English hospitals such as Ashworth, Broadmoor and Rampton. However, since there are no suitable secure facilities in Northern Ireland it is often the case that some very dangerous mentally disordered offenders can remain in Maghaberry prison for the whole of their sentences.

2.102 The position in respect of remand prisoners is different and a DHSSPS options paper presented to the CJB Mental Health Sub-Group advises that current legislation prevents the transfer of mentally disordered remand prisoners outside of Northern Ireland for high secure treatment in Great Britain. Prisoners cannot be remanded outside the jurisdiction as there is no power to have them returned for court appearances. Furthermore, the relevant legislation dealing with the removal of patients to Scotland, (i.e. the state hospital at Carstairs) specifically excludes remand prisoners.

2.103 The need for a local facility for the most dangerous mentally disordered remand prisoners has been deemed unfeasible by the DoJ given the substantial and significant resources required and the limited demand for places. However, an assessment of the various options is still under consideration by the DoJ and DHSSPS through the CJB Mental Health Sub-Group, and, as the assessment process has not been completed, Inspectors would assess the recommendation as being 'partly achieved'.

Status: Partly Achieved.

Recommendation 12

2.104 *The needs of mentally disordered offenders should be factored into the strategic review of hostel (Approved Premises) accommodation.*

PBNI Response:

2.105 *The review of PBNI's Accommodation Strategy is not due to be completed to September 2011. The needs of mentally disordered offenders will be factored into this review exercise, and early briefings of Senior Managers have been undertaken.*

2.106 *The PBNI has contributed to the Supporting People Review and Northern Ireland Housing Executive (NIHE) Homelessness Strategy Review which have not yet been published. PBNI are represented on the Supporting People Review, Homelessness and Mental Health/Learning Disability Sub-Groups.*

2.107 *The PBNI has also progressed this recommendation by their representation on the above Sub-Groups and by drawing this recommendation to the attention of the statutory provider, the Northern Ireland Housing Executive, and the Department of Justice. The full implementation of this recommendation can only be achieved through the primary service provider.*

DoJ Response:

2.108 *The NIHE has not responded to the PBNI's correspondence regarding the need to factor the needs of MDOs into the approved accommodation strategy; and Head of JSD to write to Chief Executive of NIHE.*

Inspectors' Assessment:

2.109 At the time of writing the PBNI's Accommodation Strategy was being finalised and it intended to submit the completed Strategy to the Board for consideration in early December 2011. The PBNI is not an accommodation provider, but works closely with statutory and voluntary sector partners to identify and address the accommodation needs of those under PBNI supervision.

2.110 Inspectors have been provided with a copy of the draft PBNI Strategy document which makes reference to the need to identify those under Probation supervision who have special or complex needs, and this would include those with mental health needs and learning disability. The PBNI will then work with the Health Trusts to improve access to specialist accommodation for these people.

2.111 The draft strategy also includes an action for the PBNI to continue to work closely with the NIHE to ensure the needs of homeless offenders are addressed through the NIHE's Homelessness Strategy.

2.112 The NIHE has statutory responsibility for responding to homelessness in Northern Ireland since the introduction of the Housing (NI) Order 1988. The NIHE's Corporate Plan contains a range of objectives aimed at promoting independent living, and critical to this is the delivery of housing support services to vulnerable people through the Supporting People Programme.[20]

20 NIHE Draft Homelessness Strategy 2011-2016 (incorporating a review of the 2002 Homelessness Strategy) NIHE Consultation document.

2.113 The draft Homelessness Strategy was consulted on from May to August 2011 and, at the time of writing, the final version has yet to be published, but the draft strategy recognises that the NIHE's Supporting People and Homelessness Strategies are fully complementary.

2.114 Work is underway within Supporting People to develop a new strategy and identify the main issues, objectives and principles for consideration and implementation for 2011-14. Stakeholders, provider organisations and service users will have the opportunity to have their say about the future priorities for Supporting People. The draft strategy was issued for consultation by summer 2011.[21] At the time of writing this consultation had not been published.

2.115 This recommendation has been discussed at the CJB Mental Health Sub-Group and the PBNI had written to the NIHE about the requirement to factor the needs of MDOs into the Approved Accommodation Strategy, but it had not received a response.

2.116 As a result, the CJB Mental Health Sub-Group Chair wrote to the Chief Executive of the NIHE in October 2011, highlighting the background to the recommendation, noting that Probation Board had been feeding into the ongoing NIHE review of the Supporting People Strategy, and seeking clarification as to how the review has been progressing both in general terms and more specifically how the needs of MDOs were to be factored in. Inspectors have not been made aware if any response has been received.

2.117 The statutory responsibility for responding to homelessness is outside the criminal justice system and is therefore outside the remit of CJI to assess. However, like many other areas relating to people with mental health problems, it requires a cross-departmental response.

2.118 The PBNI has been active in engagement with the NIHE regarding its Supporting People Strategy and has formally corresponded with the NIHE regarding this specific recommendation, as has DoJ's JSD and, as such, the criminal justice agencies have progressed this aspect as far as they can. However, the extent to which the needs of mentally disordered offenders have been factored into the strategic review of accommodation will become clear when the NIHE Supporting People Strategy 2011-14 is released for consultation and subsequently finalised and published.

Status: Partly Achieved.

Recommendation 13

2.119 *A specialist child and adolescent psychiatrist should be appointed, based in Northern Ireland, to advise the criminal justice agencies.*

DoJ Response:

2.120 *A part-time, locum child and adolescent psychiatrist has been appointed and the post-holder is undertaking a review of mental health services in the Juvenile Justice Centre.*

21 http://www.nihe.gov.uk/index/sp_home/strategies/independent_living-2/supporting_people_strategy.htm

2.121 *The Youth Justice Agency is to raise the extension of such services to the Young Offenders' Centre through the Safer Custody Group. Recommendation has largely been achieved.*

Inspectors' Assessment:

2.122 A consultant child and adolescent psychiatrist has been appointed to the Juvenile Justice Centre (JJC). The post-holder provides a part-time service to the JJC and is available 2½ days per week. Inspectors were advised that the appointment was as a result of an identified need for psychiatric services for children and young people in the JJC, and an increase in young people in the Centre having significant substance abuse and other disorders. The post-holder was appointed in February 2010, although work was in train to allow the appointment some time before to that, which was prior to this recommendation being published as part of the CJI inspection report, and was not, therefore, in response to this recommendation.

2.123 The child and adolescent psychiatrist works solely for the JJC and it is not part of the post-holder's remit to advise, or provide services to, the other criminal justice agencies.

2.124 The recently published CJI unannounced follow-up inspections of Hydebank Wood Women's Prison and Young Offenders' Centre found that there was less psychiatric input from specialist services for young people and women. The psychiatric consultant post was vacant. A staff grade doctor covered one session a week and there was some input from a forensic consultant. The Trust was considering the appointment of a permanent forensic psychiatric consultant.[22]

2.125 The RQIA report of the inspection found mental health services to be under-resourced and findings indicated the provision of psychiatric support services was inadequate. The report went on to say that there were no specialist Child and Adolescent Mental Health Services (CAMHS), and that the regime at Hydebank Wood was not appropriately resourced, or capable, of meeting the needs of this particularly category of offender.[23] The SEHSCT subsequently advised the Assembly Committee for Health, Social Services and Public Safety that the Trust had submitted a bid to their commissioners to enhance child and adolescent psychiatry services in prison healthcare.[24]

2.126 The CJB Mental Health Sub-Group[25] has discussed the fact that so far,

22 Report on a unannounced short follow-up inspection of Hydebank Wood Young Offender's Centre 21-25 March 2011 by the Chief Inspector Criminal Justice Inspection Northern Ireland, Her Majesty's Inspectorate of Prisons, and the Regulation and Quality Improvement Authority. October 2011. Report on a unannounced short follow-up inspection of Hydebank Wood Women's Prison 21-25 March 2011 by the Chief Inspector Criminal Justice Inspection Northern Ireland, Her Majesty's Inspectorate of Prisons, and the Regulation and Quality Improvement Authority. October 2011.

23 Hydebank Wood Young Offender's Centre and Ash House Women's Prison. Unannounced inspection of Prison Healthcare 21 – 25 March 2011. Regulation and Quality Improvement Authority 10 October 2011.

24 Committee for Health, Social Services and Public Safety. Hansard. Inspection of Prison Healthcare: Hydebank Wood Young Offenders' Centre and Ash House Women's Prison. 19 October 2011.

25 The CJB Communiqué of September 2011 referred to the associated issue of Forensic psychologists and that there has been a long standing difficulty in attracting qualified forensic psychologists into the criminal justice system. A review carried out in 2008 provided a long-term strategy to address the recruitment, professional training and remuneration of qualified staff to meet the needs of the criminal justice system. A cross-agency working group, chaired by DoJ's JSD, has been taking that strategy forward. The Communiqué went on to say that the issues were complex and the CJB considered a number of options to provide short, medium and long-term solutions.

progress to this recommendation has been limited to the JJC, and the DoJ undertook to table the subject of extending coverage to Hydebank Wood Young Offenders' Centre at a meeting of the Quadripartite Group, at which the DoJ, NIPS, PBNI and YJA are represented. However, there has been no further progress or a decision regarding the appointment of a specialised child and adolescent psychiatrist, based in Northern Ireland, to advise the criminal justice agencies.

2.127 Subsequent to the fieldwork Inspectors have been advised by the DoJ that the JJC Consultant Psychiatrist now sits as a member of the CJB Mental Health Sub-Group. The role of the Group includes looking at mental health issues at a more strategic level, enhancing engagement between health and criminal justice organisations on mental health strategy and MDOs. The DoJ further advised that the Public Health Agency also recognised the need for the criminal justice system to receive advice and for young people to have access to child and adolescent mental health services, and the DoJ believe that although the consultant is part-time, it feels that the advisory role is now being fulfilled.

2.128 As a result, Inspectors would assess this recommendation as having been partly achieved.

Status: Partly Achieved.

Recommendation 14

2.129 *All the criminal justice agencies in Northern Ireland should collect statistics on the incidence of mental health issues in the cases they handle and these should be shared with the Health Service.*

NICTS Response:

2.130 *The NIPS, YJA, PSNI and PBNI collect statistical information on mental health issues from the early stages of a defendant coming into contact with the criminal justice system to beyond their sentencing hearing (depending on the outcome). The NICTS will continue to record statistics relating the specifics of a courts finding on a defendant's fitness to plead (or otherwise) when same is dealt with at a preliminary court hearing and track this through to the subsequent court disposal.*

NIPS Response:

2.131 *Statistics are currently gathered on the incidents of mental illness arising within the prisons in Northern Ireland. All identified cases are recorded on Electronic Medical Information System (EMIS) medical information system.*

PBNI Response:

2.132 *In support of this recommendation, and also in response to the Section 75 inspection report (published May 2009) PBNI commenced equality monitoring of service users in June 2010. The first report on the demographic characteristics of service users demonstrated that 23% of offenders under PBNI supervision have declared a mental health disability.*

2.133 *Referrals are made to PBNI's Psychology Department, and information is collated on the reason for the referral to identify treatment needs and interventions required/offered. Such intervention may be provided by PBNI itself, or by other mental health services.*

2.134 *From May 2010 to May 2011, 644 referrals were made to PBNI's Psychology Department for assessment. Approximately 60% of these referrals have been for assessment of mental health issues, and 10% for assessment of learning disability (the remainder of the referrals were in relation to risk assessments and general advice on treatment suitability).*

2.135 *Training has been provided for Probation Officers and Area Managers to promote best practice in dealing with offenders presenting with mental health issues. This training included:*

- *mental health awareness;*
- *suicide and self-harm; and*
- *personality disorder, mental health law and risk management with the mentally disordered offenders.*

2.136 *Further training is planned for 2011-12 on mental health issues.*

PPS Response:

2.137 *A cross-agency approach is needed to decide what exact data is required, where to collect data, the extent/means of sharing data and resource implications.*

2.138 *The DoJ Statistics and Research Branch has made initial contact with other CJO statisticians to establish what statistics are being collected.*

2.139 *The next stage in taking this recommendation forward will be meetings with statisticians and police officials to determine the information required, the best means of collecting this and the potential for/and implications of sharing data with the Health Service.*

PSNI Response:

2.140 *In relation to the recommendation, in June last year it was proposed that this recommendation be rejected giving the following rationale. When the warning on Niche for detainees as outlined in Recommendation 3 is completed this information will be shared with the relevant criminal justice agencies through Causeway. Those offenders who require screening will be done so by these agencies and the information will be shared with the Health Service as appropriate. The PSNI cannot assess an individual for mental health but can only flag to appropriate agencies. A Criminal Justice Steering Group in relation to taking this forward has been set up for both mental health and learning difficulties.*

2.141 *ACC Criminal Justice approved that the recommendation be rejected on 22 June 2010.*

2.142 *In addition, the Mental Health Sub-Group of the DoJ Criminal Justice Board have outlined the following in relation to this Recommendation:*

- *cross-agency approach needed to decide exact data required, where to collect data, extent means of sharing data and resource implications; and*
- *DoJ Statistics and Research Branch to liaise with other CJO statisticians/policy officials with a view to measuring incidence of mental health issues and the potential for/implications of sharing data with Health Service.*

Youth Justice Agency Response:

2.143 *The Youth Justice Agency Assessment tool (YJAA) has become fully integrated into working practices. Each young person has*

a YJAA completed within four weeks of referral, and content reviewed thereafter every three months until point of discharge. The YJAA contains information on eleven key areas identified in research literature as being relevant to understanding and responding to offending behaviour by young people. Scores on each of these areas, in relation to risk of reoffending, are collated in a YJA Assessment database. Of particular relevance to the CJI review are sections entitled 'substance misuse', 'emotional and mental health', and 'perception of self and others'. For example in April to June 2011, YJA have a record of 427 YJAAs, of which 50 had a score of three or four, indicating a direct link between symptoms of mental health and offending.

2.144 *A monthly report has been developed within the Juvenile Justice Centre in relation to, among other things, self-harm incidents. The data is disaggregated by gender, religion, unit in which the self-harm occurred and the nature of the injury.*

2.145 *The Drugs and Alcohol Regional Initial Assessment Tool (RIAT) continues to operate and basic information is collated relating to young person details, main drug of misuse, parental misuse, and RIAT outcome. Development work is currently underway in relation to the creation of a RIAT web interface, due for completion by end of calendar year 2011[26]. This will potentially allow for a much broader range of information to be collated within the YJA, including data on frequency of drug use, circumstances of use, persistent effects and mental health effects.*

2.146 *The Youth Justice Agency Interim Management Information System has been further developed to incorporate a health screen. This screen is common to the Juvenile Justice Centre and the Community Services[27], the latter of whom also capture information for young people completing a youth conference plan. Whilst still in a state of roll-out, this part of the database is designed with the intention of capturing information on all relevant health conditions with which the young person presents.*

DoJ Response:

2.147 *Cross-agency approach needed to decide exact data required, where to collect data, extent/means of sharing data and resource implications.*

2.148 *The DoJ Statistics and Research Branch has made initial contact with other CJO statisticians to establish what statistics are being collected.*

2.149 *The next stage is likely to be meetings with statisticians and police officials to determine the information required, the best means of collecting this and the potential for/implications of sharing data with Health Service.*

Inspectors' Assessment:

2.150 As can be seen in the responses from the various criminal justice agencies, each collects and maintains a variety of data in relation to mental health, learning difficulty, self-harm etc.

26 The creation of the RIAT web interface was due for completion by the Public Health Agency by the end of 2011 but this has not been achieved.

27 Within the YJA there has been an internal re-organisation and from 1 November 2011, Community Services has been amalgamated with the Youth Conference Service to form one operational directorate Youth Justice Services.

2.151 The PSNI expressed concerns that the statistics could under-represent the actual position as many people with mental health issues may deny, or be reluctant to disclose these, for example in being asked by a Custody Sergeant as part of the custody risk assessment. Although the PSNI was hoping that this would be lessened when the mental health nurses are in place in all police custody suites (Recommendation 4 above refers).

2.152 The YJA assessment tool is applied to all young people referred to the Agency and has specific sections covering protective and risk factors associated with emotional and mental health, and substance misuse. Inspectors were advised that the YJA was currently developing its statistics, recording and IT systems and, at the time of the fieldwork, was awaiting the publication of the Youth Justice Review as its recommendations had the potential to inform the further development of the Agency's data collection and IT processes.

2.153 The situation in the NIPS is different and Inspectors were informed that the statistics and information relating to prisoners and mental health (and healthcare issues in general) was SEHSCT information and was not held by the prison service.[28] At an operational level in the three prisons, SEHSCT healthcare staff had regular meetings with the Governing Governors in which they were made aware of healthcare issues, statistics, performance and updates in respect of individual prisoners in the respective establishments.

2.154 The sharing of information with the Health Service is also inconsistent and there are varying levels of contact with health and other agencies. Some had information sharing arrangements, for example there had been an interchange of information between the YJA and PBNI in respect of the Priority Youth Offender Project (PYOP) initiative, and the YJA had contact with Health and Social Services about looked-after children.

2.155 At local level in the PSNI, MHLOs collated a variety of information about mental health cases in their respective districts, and there were good relationships and information sharing with the Trust mental health teams at meetings to discuss individual cases. However, some concerns were expressed to Inspectors that Officers felt vulnerable exchanging this information in the absence of a formal protocol between the PSNI and the Health Service (Recommendation 2 refers).

2.156 The inconsistencies in recording and sharing information on mental health, the number of statistical sources/related issues across the criminal justice system and between the criminal justice system and the Health Service is recognised at the CJB Mental Health Sub-Group level. The DoJ has identified that a cross-agency approach is needed to decide the exact data required, where to collect it, the extent and means of

28 Subsequent to the fieldwork Inspectors have been advised by the DoJ that base line data is collected on EMIS at the time of committal and conditions and healthcare problems are 'red coded'. This in turn informs how the client is managed in relation to chronic disease management throughout their stay in prison. EMIS is the only system onto which healthcare notes are recorded and it is done by practitioners in real time, therefore statistics in relation to any disease, addiction or acute episodes can be extracted. Access protocols are being developed.

sharing data with the Health Service, and the resource implications of doing this. Work is being taken forward by the DoJ's Senior Statistician. At the time of writing the most recent minutes of the CJB Mental Health Sub-Group outline the next stage is likely to be meetings with statisticians and policy officials to determine the information required and the best means of collecting it. One means of doing so might be to commission a research project.

2.157 During the fieldwork DoJ officials advised Inspectors that the research was to be commissioned by it's JSD but that no timescales had been agreed for commencement and completion dates, and that there were issues around securing finance for commissioned research.

2.158 Inspectors were also advised that the individual within the DoJ identified to take this work forward has been on a prolonged absence from work and that no-one had been tasked with taking the work forward on their behalf.

2.159 Whilst Inspectors would assess this recommendation as being 'partly achieved', i.e. the criminal justice agencies collect a variety of data on the incidence of mental health issues in the cases they handle, and some of this is shared with the Health Service, there is considerable work to be done at a strategic level, to identify and co-ordinate the data required to be collected and maintained by the criminal justice agencies, and to agree with the Health Service the information sharing protocols and mechanisms required to further the business needs of health and criminal justice. Inspectors would encourage the CJB Mental Health Sub-Group to ensure this work is completed expeditiously.

2.160 Subsequent to the fieldwork Inspectors have been advised by the DoJ that it's Departmental Research Committee has agreed to undertake specific research on mental health issues and that a number of external stakeholders are keen to undertake large studies in Northern Ireland. The Department is scheduling a discussion with the Northern Ireland Association for Mental Health about the research they are doing.

Status: Partly Achieved.

Recommendation 15

2.161 *The Health Service should be held accountable for the delivery of the programme of improvements to mental healthcare in prisons which is planned.*

DoJ Response:

2.162 *With the transfer of healthcare delivery, South Eastern Health and Social Care Trust (SEHSCT) has assumed accountability for a planned programme of improvements to NIPS mental health services through a Partnership Board, which meets bi-monthly.*

2.163 *Addiction Services Nurses, Discharge Co-ordinators and Nursing Assistants have been recruited, a contract for addiction casework services has been awarded, action to rationalise psychiatry services is in hand, and additional cognitive behavioural therapy (CBT) sessions have been introduced. Recommendation has been actioned.*

NIPS Response:

2.164 *The SEHSCT is held accountable through the HSC Commissioner, the Department and the NIPS for the delivery of a mental health programme of care.*

Inspectors' Assessment:

2.165 The management of healthcare in Northern Ireland transferred from the NIPS to Health and Social Care Services in 2008. Since 2009 prison healthcare is commissioned by the HSCB and provided by the SEHSCT.

2.166 Inspectors were advised that the NIPS no longer considered itself responsible for healthcare in prisons and did not hold SEHSCT to account for the delivery of healthcare in prisons. The SEHSCT is required to provide a standard of care at least equivalent to the service provided in the community.

2.167 The service is delivered by SEHSCT with accountability and governance arrangements similar to other non-prison related health services delivered by the Trust.

2.168 NIPS staff delivering healthcare in the prisons have yet to transfer to the SEHSCT. This can lead to difficulties as highlighted by CJI in an earlier report[29] where the SEHSCT is accountable for healthcare within the prisons but has no direct authority for the staff delivering the service. Management, performance and discipline issues were the responsibility of the NIPS. Inspectors were told that there is a plan for all the staff transfers to take place on 1 April 2012[30] and the NIPS is currently working through the associated employment issues.

2.169 Inspectors were advised that at operational level in Maghaberry and Hydebank Wood there are Strategic Improvement Boards, chaired by the SEHSCT, and attended by the Governing Governors, or their representatives, to address on-site healthcare issues to improve services to prisoners. Inspectors were informed that NIPS can influence commissioning of healthcare services in the prisons through consultation by the Health Board on the draft commissioning plan, however this work has not been completed[31] and the NIPS input has been limited.

2.170 Health services are provided to prisoners by the SEHSCT who are held accountable for the level and quality of healthcare provided and for the delivery of the programme of improvements to mental healthcare in prison through the existing arrangements under DHSSPS and the HSCB. These arrangements are outside the statutory remit of CJI and have not been assessed.

29 Northern Ireland Prison Service Corporate Governance Arrangements. An Inspection of Corporate Governance Arrangements within the NIPS. CJI. December 2010.

30 'Healthcare structures and staff will be transferred to the South Eastern Health and Social Care Trust' is an objective in the NIPS Corporate Plan 2011-15.

31 Subsequent to the fieldwork Inspectors have been advised by the DoJ that the Public Helath Agency 2011-12 Commissioning Plan has now been completed. The HSCB/PHA updates its Commissioning Plan on an annual basis. This means that engagement with stakeholders is both cyclic and iterative. As part of this cycle there are opportunities for feedback from NIPS and other stakeholders as part of an open-ended process. The HSC Board recognising the importance of prison health care, has established a prison health service team with specific responsibility for the commissioning and monitoring of prison health care. The team produces a statement of commissioning intent for Prison Health Care which is included in the annual commissioning plan.

2.171 A recently published CJI inspection report of the treatment of vulnerable prisoners by the NIPS recognised that progress had been made in this area and that the Prison Service had taken steps to address the deficiencies identified in the previous reports. In particular the implementation of the Supporting Prisoners at Risk arrangements for the management and monitoring of vulnerable prisoners represented an improvement on previous practice. In addition, the provision of dedicated resources to the management of vulnerable prisoners and the opening of the Donard Centre at Maghaberry prison were welcome developments, as was the reduced usage of observation cells, anti-ligature clothing, and the more individualised assessment of vulnerable prisoners. Managerial oversight had also improved with a more robust self-audit.[32]

2.172 Other recently published inspection and review reports however, have been critical of the governance and accountability arrangements for the healthcare service provided in Northern Ireland prisons.

2.173 The Prison Review Team report found the governance and management arrangements for the delivery of healthcare to be complex and not conducive to joint working and clear accountability.

2.174 A Partnership Board was set up to manage the transition, but this now needs to become a more robust permanent structure, under the direction of the HSCB/Public Health Agency (PHA), with clear linkages to commissioning and delivery; there was no finalised and agreed strategy or implementation framework with clearly identified priorities, accountabilities, resource requirements, timescales and success measures; and that the routine interface by the SEHSCT with the NIPS was not at a sufficiently senior or direct level.[33]

2.175 The report also found that there had not been an accurate assessment of the health needs in the three different Northern Ireland prisons, which was an essential prerequisite to developing a health improvement plan for each establishment, providing a work programme and framework for three implementation sub-groups reporting to the main Board, and that the plans needed to recognise the needs of specific groups[34], including those with mental health needs.

2.176 The report went on to make a number of healthcare-specific recommendations including that the current governance structure for healthcare in prisons should be strengthened and clarified, in the context of links between criminal justice and healthcare more generally; data-collecting and monitoring should be improved, and health needs assessments carried out in each prison to frame and support individual improvement plans and assess performance delivery; the transfer of

32 An Inspection of the Treatment of Vulnerable Prisoners by the Northern Ireland Prison Service – Follow-up Review, January 2012, CJI.
33 Review of the Northern Ireland Prison Service. Conditions, management and oversight of all prisons. Prison Review Team, Final Report, October 2011.
34 Ibid.

healthcare staff to SEHSCT should be expedited[35] and, in the interim, clinical leadership and governance should be strengthened; and that clear pathways for primary healthcare and mental healthcare should be established and implemented as a matter of urgency.[36]

2.177 A recently published unannounced inspection report (by CJI, Her Majesty's Inspectorate of Prisons (HMIP), the Education and Training Inspectorate (ETI) and RQIA) of Hydebank Wood Young Offenders' Centre and Ash House Women's Prison found health services to be under-resourced, poorly managed and there was sometimes unsatisfactory attention to the needs of patients.[37] There had been a baseline health needs analysis carried out in 2009 and annual assessments carried out for the commissioners, the HSCB, but this was flawed and resulted in an under-identification of needs[38].

2.178 The RQIA found that the joint clinical and social care governance arrangements between the NIPS and the SEHSCT needed to be improved to facilitate continuous service development. Key areas of improvement were found to be: the HSCB should complete, as a matter of priority, the 'commissioning statement of intent'; the system whereby the SEHSCT had no direct authority for healthcare staff employed by the NIPS created difficulty with performance management and could leave staff feeling professionally isolated. The SEHSCT and NIPS needed to provide clarity in respect of accountability arrangements as the current arrangements appeared to the inspection team to fall short of robust and effective clinical governance. The team had not been informed of any actions taken to address under-performance; poor attendance at the Regional Prison Health Governance Committee was of concern and provided little assurance that a robust and proactive governance system was in place; and that prison healthcare should be a standing item on the agenda of the SEHSCT Governance Assurance Committee to strengthen clinical governance arrangements.[39]

2.179 While the accountability and governance arrangements for the SEHSCT are outside the statutory remit of CJI it is clear that there are accountability arrangements in place through existing arrangements under DHSSPS, the HSCB, the Northern Ireland Assembly Committee for Health, Social Services and Public Safety, and through external inspection.

35 SEHSCT has subsequently advised Inspectors that needs assessments is underway and that a Project Board is in place with anticipated date for transfer of staff on 31 March 2012.

36 Review of the Northern Ireland Prison Service. Conditions, management and oversight of all prisons. Prison Review Team. Final Report October 2011.

37 Report on an unannounced short follow-up inspection of Hydebank Wood Young Offender's Centre 21-25 March 2011 by the Chief Inspector Criminal Justice Inspection Northern Ireland, Her Majesty's Inspectorate of Prisons, and the Regulation and Quality Improvement Authority. October 2011. Report on an unannounced short follow-up inspection of Hydebank Wood Women's Prison 21-25 March 2011 by the Chief Inspector Criminal Justice Inspection Northern Ireland, Her Majesty's Inspectorate of Prisons, and the Regulation and Quality Improvement Authority, October 2011.

38 Report on an unannounced short follow-up inspection of Hydebank Wood Young Offender's Centre 21-25 March 2011 by the Chief Inspector Criminal Justice Inspection Northern Ireland, Her Majesty's Inspectorate of Prisons, and the Regulation and Quality Improvement Authority. October 2011.

39 Hydebank Wood Young Offender's Centre and Ash House Women's Prison. Unannounced inspection of Prison Healthcare 21 – 25 March 2011. Regulation and Quality Improvement Authority 10 October 2011.

However, in the light of the Prison Review Team report and the CJI and RQIA inspection reports, it is reasonable for Inspectors to make the observation that work needs to continue by the Health Service, in consultation with the NIPS, to strengthen accountability arrangements for the delivery of the programme of improvements to mental healthcare in the prisons, to address the issues raised in the original CJI inspection report and which this recommendation was designed to improve.

Status: Partly Achieved.

Recommendation 16

2.180 *The Northern Ireland Personality Disorder (PD) Strategy should be pursued as quickly as possible, and to the degree that, resources allow.*

DoJ Response:

2.181 *The PD Strategy, published by the DHSSPS in June 2010, has recommended the establishment of a dedicated PD facility for relevant offenders pre-release from prison or at risk of being returned to custody.*

2.182 *With no immediate prospect of such a facility given limited resource availability, HSC provision in the community would have to cater for people with PD who are subject to the criminal justice system.*

2.183 *Mental Health Sub-Group members who also sit on the Specialist High Support Services Sub-Group to provide regular progress reports on the PD Strategy.*

2.184 *The JSD to bring forward a PD facility paper to the Criminal Justice Board.*

Inspectors' Assessment:

2.185 The Bamford Review of Mental Health and Learning Disability Services recommended the development of dedicated PD services in both forensics services and adult mental health reports. This led to a consultation exercise which ended in March 2009 which had a range of responses across the health and social care organisations, the community and voluntary sector, individuals and government.[40]

2.186 'Personality Disorder: A Diagnosis for Inclusion - The Northern Ireland Personality Disorder Strategy' took into consideration the consultation responses and was launched by the Northern Ireland Health Minister on 30 June 2010, three months after the publication of the CJI thematic inspection report on mental health.

2.187 The lead for implementation of the Strategy is identified in the document as the HSCB and the PHA, working in partnership with service users and carers, and the statutory and community sectors. The Strategy also recommended that a Personality Disorder Network Group (PDNG) be established under the auspices of the Bamford HSC Taskforce and tasked with taking forward the Strategy.[41] The PDNG would include representation, at senior level, of the key stakeholder agencies including criminal justice.

40 Personality Disorder: A Diagnosis for Inclusion. The Northern Ireland Personality Disorder Strategy. DHSSPS. June 2010.
41 Ibid.

2.188 A Personality Disorder Sub-Group of the Bamford Specialist High Support Services Sub-Group has been formed and the criminal justice sector is represented by the PBNI and NIPS. In addition other criminal justice agencies have attended meetings on an 'as required' basis.

2.189 The Northern Ireland Personality Disorder Strategy is a DHSSPS Strategy and is therefore not within the statutory remit of CJI to assess[42]. However, the issues identified in the original CJI inspection report are still relevant, i.e. the shortcomings of the treatment of personality disordered offenders in the present system, and as the Personality Disorder Strategy is designed to address these issues, Inspectors would reiterate that the Northern Ireland Personality Disorder Strategy should be pursued, as quickly as possible, and to the degree that resources allow.

Status: Partly Achieved.

Recommendation 17

2.190 *A formal review of the service provided by the Health Service to the NIPS should be undertaken in 2014. The review would consider the impact on prisoner outcomes of the services provided by the South Eastern Health and Social Care Trust against NIPS requirements and Her Majesty's Inspectorate of Prisons' 'healthy prison' test.*

DoJ Response:

2.191 *The services SEHSC Trust provide to NIPS are subject to continuous review and improvement through a Partnership Board.*

2.192 *The HSCB will give consideration, nearer the time, to the type of review to be undertaken, the ground to be covered and the stakeholders involved. Recommendation has been actioned. Steps are in place for a review in 2014.*

NIPS Response:

2.193 *Arrangements will be made for a formal review in 2014 of the mental health services provided to prisoners in Northern Ireland by the South Eastern HSC Trust.*

2.194 *In conclusion, the NIPS will continue to work in close partnership with SET to provide support services to prisoners with mental health problems. However, delivery is impacted by constraints in how NIPS is structured and in outdated practices, procedures and work processes. Until NIPS undergoes significant and fundamental change as part of the Strategic Effectiveness and Efficiency Programme, real change will not be delivered. This is a long process over a four year period.*

Inspectors' Assessment:

2.195 This recommendation is for a formal review of the service provided by the Health Service to the NIPS to be undertaken in 2014 and is therefore outside the timescale of this follow-up.

42 Subsequent to the fieldwork Inspectors were informed by the DoJ that the Public Health Agency have advised that £573,000 was provided by DHSSPS/HSCB in 2010-11 to progress the development of PD Community Services. Progress has been made and a number of specialist practitioners, including psychologist, psychotherapist, nurses, social worker and user/carer experts have been recruited. Services have not developed as quickly as anticipated. Funding was due to economic climate and some Trusts experienced difficulty in recruiting staff. However, the Personality Disorder Network has been established and is led by Belfast Trust and £144,000 non-recurrent funding has just been awarded to the network to coordinate training for staff working in this area.

2.196 Inspectors understand that a review of the transfer of healthcare from the NIPS to the SEHSCT has been jointly commissioned by the two organisations. This is to review the transfer process and is not to assess current levels of service provided. The outcome of the review will inform the wider formal review in 2014.

2.197 From a criminal justice perspective Inspectors would expect the NIPS to be fully consulted about, and involved in, the 2014 formal review.

Status: Not assessed.

Recommendation 18

2.198 *A joint Health and Criminal Justice Programme Board should be created to bring together all relevant organisations to develop a clear approach to the needs of mentally disordered offenders.*

DoJ Response:

2.199 *The CJB Mental Health Sub-Group met for the third time in March 2011.*

2.200 *Planned activities are in place.*

2.201 *Consideration is being given to future arrangements/structures/activities, while ensuring the sharing of relevant information, the avoidance of duplication, input into cross-cutting issues and a mechanism for reaching agreement on such issues.*

2.202 *The JSD to liaise with the Public Health Agency regarding the Bamford sub-groups, notably the impact/role of CJOs, and issue a note outlining proposals for recast terms of reference prior to the next sub-group meeting. Recommendation has been actioned.*

Inspectors' Assessment:

2.203 The CJB Mental Health Sub-Group has been formed, under the Chair of the DoJ Justice Strategy Division, and includes representatives from the:

- DoJ;
- PSNI;
- DHSSPS;
- Western HSC Trust;
- Belfast HSC Trust;
- SEHSCT;
- Public Health Agency;
- NIPS;
- NICTS;
- HSCB;
- PPS;
- PBNI; and
- YJA.

2.204 The CJB Mental Health Sub-Group's first meeting was in July 2010 and there have been further meetings in November 2010 and March 2011. The Group is currently reconsidering its Terms of Reference and a draft has been circulated to Sub-Group members for discussion at the next meeting, which covers the 2010-11 and 2011-12 and beyond. These are below:

Draft Terms of Reference for CJB Mental Health Sub-Group

Purposes 2010-11

Drawing from the CJI report:

- to co-ordinate and take forward the delivery of the CJI report's recommendations;
- to monitor and evaluate progress; and
- to produce a report one year after the report's publication (in March 2011).

Activities and approach:

- to develop and agree a delivery strategy;
- to identify short, medium and longer term targets;
- to commission agency actions and reports;
- for medium term targets, to develop and improve information systems; and
- for longer term targets, to assess resource requirements and identify legislative improvements.

Reporting structures:

- to provide progress reports to the Criminal Justice Board;
- to report as appropriate to [relevant DHSSPS] Board; and
- to report to DoJ and DHSSPS Ministers.

Timetable :

- to meet regularly to review progress; and
- to review the continuing need for the Group in March 2011.

Purposes 2011-12 and beyond

Building on three work strands - CJI report, the Bamford Review and the Personality Disorder Strategy:

- to develop a wider, prioritised strategy/action plan on tackling mental health issues in the criminal justice system;
- to enhance engagement between health and criminal justice organisations on mental health strategy and services for MDOs; and
- to act as an Advisory Group to the criminal justice system on strategic issues arising from the three work-streams.

Approach:

- to provide an inter-agency forum for problem identification and resolution; and
- to create targeted Sub-Groups on special topics.

Activities:

- to identify targets (to include the longer term targets from the CJI report);
- to assess resource requirements;
- to develop a training and development strategy;
- to identify legislative improvements;
- to develop and improve information exchange; and
- to commission agency actions and reports.

Reporting structures:

- to provide progress reports to the CJB;
- to report as appropriate to [relevant DHSSPS] Board; and
- to report to DoJ and DHSSPS Ministers.

Timetable

- to meet regularly to review progress.

2.205 In addition, to improve understanding of the wider Bamford activities and partly to inform the demarcation of responsibility lines between the DHSSPS-led groups and the CJB Mental Health Sub-Group, officials from the DoJ JSD met with the PHA regarding the roles of the Bamford Specialist High Support Services Sub-Group and three further Sub-Groups under its auspices (Forensic Services, PD and Low Secure). To better enable the DoJ to keep abreast of

developments, an official from it's JSD has been invited to join the Specialist High Support Services Sub-Group.

2.206 The PBNI and NIPS are represented on the Personality Disorder Sub-Group and other criminal justice agency representatives have attended meetings on an 'as required' basis.

2.207 In parallel to the work of the CJB Mental Health Sub-Group a new Project Steering Group has been established to oversee the development of policy and legislation in relation to the application of mental capacity principles to the criminal justice system. This will assess and acknowledge the current position; set out key challenges; and draw on lessons from elsewhere in highlighting the main areas where the CJB attention can add value. The work will ensure engagement between key health sector interests and criminal justice organisations. As a result, the draft terms of reference for the CJB Mental Health Sub-Group in respect of shorter and longer-term aspirations are being revisited prior to the next meeting.

2.208 The CJB Mental Health Sub-Group is attended by a spread of individuals representing the relevant areas/agencies in health and criminal justice. The Terms of Reference provide clear purposes, activities and reporting structures to the CJB, the DoJ and DHSSPS, and should have the capacity to develop a clear approach to the needs of MDOs.

Status: Achieved

CHAPTER 3:

Conclusion

3.1 The progress made by the criminal justice agencies following the original inspection report in March 2010 has been limited. Mental health issues in the criminal justice system cannot be narrowly focussed on the criminal justice agencies, and achieving a number of the recommendations requires the involvement of non-justice departments and agencies outside the remit of CJI. Inspectors understand the difficulties involved but would have concerns about the speed of progress.

3.2 In respect of the six main areas identified in the original inspection report where changes need to be made, an assessment has been made in Chapter 2 of each of the specific recommendations intended to achieve these. Overall progress can be summarised as follows:

Main Area 1 - *Establish clear rules about where mentally disordered people are to be taken when they are arrested or detained by the police. The rules should distinguish between different sorts of cases and should be specific about the relevant place of safety for each category in each police district.*
Relevant recommendation: 2 (Not Achieved).

Main Area 2 - *Make sure that mentally disordered people are properly assessed when they arrive at the place of safety. In police stations, this means extending the Mentally Disordered Offender (MDO) Scheme to cover all the custody suites in Northern Ireland.*
Relevant recommendation: 4 (Not Achieved).

Main Area 3 - *Make sure that the assessment (and any other available information) is properly recorded on the PSNI's information system (Niche) and is passed on as part of any file which goes 0to the Public Prosecution Service for Northern Ireland (PPS).*
Relevant recommendations: 3 (Achieved); 8 (Achieved).

Main Area 4 - *Make sure that the PPS brings any mental health issues to the attention of the Court at the earliest opportunity, so that the judge can consider it (and call for further expert advice, if necessary) before the case is heard.*
Relevant recommendations: 5 (Not being pursued); 9 (Achieved).

Main Area 5 - *Make sure the care of prisoners is based around the 'healthy prison' agenda which provides real and significant outcomes for prisoners. There is*

a need for on-going review of the quality of care provided by the Health Service and corrective action taken where necessary. In addition, there is a need for a local high secure hospital to which the most dangerous mentally disordered prisoners can be transferred for treatment. Relevant recommendations: 11 (Partly Achieved); 15 (Partly Achieved); 17 (Not Assessed).

Main Area 6 - *Focus on the need for suitable accommodation to help mentally disordered offenders to make the transition back into the community with adequate supervision and aftercare.* Relevant recommendation: 12 (Partly Achieved).

3.3 Inspectors acknowledge that a lot of work has been undertaken by the criminal justice agencies, and the co-ordination role of the CJB Mental Health Sub-Group, towards progressing the recommendations, but the cross-agency and cross-departmental nature of the engagement has slowed and limited progress. Mental health requires more than a single department response and recent reports have been critical of cross-organisational liaison.[43] However, it is vital for the departments and agencies to work constructively together to address these important, and other, cross-cutting issues. Inspectors would urge the DoJ to maintain contact with other departments to produce the strategic shift that is required, and to ensure that the mental health issues referred to in the original report are progressed, as these ultimately impact on the criminal justice system when people with mental health problems become involved with criminal justice agencies.

3.4 The recently published review of the NIPS also recognised that a cross-departmental approach was essential, and made the recommendation that there should be a joint healthcare and criminal justice strategy, covering all health and social care trusts, with a joint Board overseeing commissioning processes within and outside prisons, to ensure that services exist to support diversion from custody and continuity of care.[44] This should also improve cross-departmental working in respect of mental health issues.

3.5 Inspectors would also urge other statutory inspectorates to consider the wider mental health issues during the course of their work, the cross-departmental issues involved, their partnership and collaboration arrangements with criminal justice organisations, and how working practices and operational delivery in their respective organisations can ultimately impact on the criminal justice system.

3.6 Within the justice system the CJB should continue to monitor developments of the matters being progressed by the CJB Mental Health Sub-Group and satisfy itself that sufficient progress is being made in this important area.

3.7 Mental health continues to be a significant factor for the criminal justice

43 Review of the Northern Ireland Prison Service. Conditions, management and oversight of all prisons. Prison Review Team. Final Report. October 2011, and Hydebank Wood Young Offender's Centre and Ash House Women's Prison. Unannounced inspection of Prison Healthcare 21 – 25 March 2011. Regulation and Quality Improvement Authority 10 October 2011.

44 Review of the Northern Ireland Prison Service. Conditions, management and oversight of all prisons. Prison Review Team. Final Report. October 2011.

system both in terms of the high numbers of individuals involved, but also in terms of its impact on the criminal justice organisations. The treatment and care of people with mental disorders presents enormous challenges to the criminal justice system in Northern Ireland and this continues to be the case. Mental health within the criminal justice system is not a marginal issue and work needs to continue on a cross-departmental, and Northern Ireland-wide, basis to address the issues raised in the original CJI inspection report.

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