

Prison Reform Trust response to Joint Committee on Human Rights inquiry into mental health and deaths in prison – February 2017

The Prison Reform Trust (PRT) is an independent UK charity working to create a just, humane and effective penal system. We do this by inquiring into the workings of the system; informing prisoners, staff and the wider public; and by influencing Parliament, government and officials towards reform. The Prison Reform Trust provides the secretariat to the All Party Parliamentary Penal Affairs Group and has an advice and information service for people in prison.

The Prison Reform Trust's main objectives are:

- reducing unnecessary imprisonment and promoting community solutions to crime
- improving treatment and conditions for prisoners and their families.

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Introduction

We welcome the inquiry into mental health and deaths in prison because it will focus on why lessons learned have not resulted in a sustained reduction in self-harm and self-inflicted deaths. 354 people died in prison 2016, the highest number on record. A third of these deaths were self-inflicted. 12 women took their own lives in 2016.¹

The causes of self-inflicted death in prison are complex and deeply rooted in the nature of penal institutions. However, there is no mystery about why self-harm and self-inflicted deaths have increased:

- Custody is over-used and targets many who are most vulnerable to the mental distress that can precipitate self-harm; and
- Conditions and treatment in prisons have deteriorated, undermining the humane and decent environments in which hope can be sustained.

The main changes since the previous Joint Committee on Human Rights inquiry into deaths in custody in 2004 are that prisons are less safe, there is

¹ Table 2, Ministry of Justice (2017) Safety in custody statistics quarterly update to September 2016, London: Ministry of Justice and Office for National Statistics (2016) Suicides in the United Kingdom: 2014 Registrations, London: Office for National Statistics.

less purposeful activity, and there are fewer officers on the wings to offer support.

The appropriateness of prison

1. Community sentences, with support and treatment, are a practical alternative to prison in many more situations than the system currently recognises. The Mental Health Treatment Requirement is, however, rarely used; and even less exists for offenders with learning disability or autism who have mental health problems.
2. NHS England liaison and diversion services serve an important role, identifying individuals with particular needs, including mental health problems, at their first point of contact with the criminal justice system. Funding is secured until 2018 to achieve a 75% population coverage. A further successful business case is necessary to secure 100% population coverage by 2020.
3. Assessments by liaison and diversion services inform criminal justice decision making - including bail and sentencing. They also ensure that individuals receive timely support for their mental health and other needs, such as substance misuse, housing, family support, and from community learning disability and autism services. However, their effectiveness depends on the availability of community services and timely referrals. Being placed on a waiting list is not a 'service'.
4. Co-existence of mental health problems with, for example, substance misuse, being an offender or homelessness can debar a person from accessing mental health services. Similarly, unless a person's mental health problem is sufficiently severe, they will find it hard to access mental health services.
5. Inclusion in society for people with disabilities, including people with certain mental health conditions, is an important principle, upheld in law by the Equality Act.

PRT recommends: The use of practical alternatives to prison for people with mental health problems, autism and learning disabilities should be prioritised, as the experience of prison can leave them especially vulnerable. Reasonable adjustments to accommodate a person's disability should be anticipated and made. For women in particular, there needs to be:

- a significant reduction in the number of women subject to custody;
- holistic, women centred services in the community that pre-empt the crises that lead to offending and self-harm.

Assessment of risk

6. Through liaison and diversion services, vulnerability can be identified at the point of arrest, and this information should inform criminal justice decision

making, referrals into local services and, if the person is remanded into custody or sentenced to custody, the information should 'travel' with them.

7. Here, as in other contexts, the pressures on prisons affect how much can be done. A male local prison receives between 10 and 50 people on a weekday, usually in the evening. The reception area is busy—there are over a dozen distinct procedures to work through—and noisy, giving little opportunity for privacy.
8. Nigel Newcomen, HM Prisons and Probation Ombudsman, reported that while mental health needs were noted in almost three-quarters of people who suffered a self-inflicted death, only half had their mental health needs identified at reception. Further, the PPO concluded that a mental health referral should have been made (but was not) in 29% of self-inflicted deaths. Identification of mental health needs was often lacking, due to "poor information sharing, failure to make referrals, inappropriate mental health assessments, and inadequate staff training."²
9. **PRT recommends:** Communication, both within prison and between prisons and police, local authorities and others, should be improved.
10. Only about a third of those who suffer a self-inflicted death in custody are on an open ACCT³ at the time, suggesting that the process is only partially effective in predicting suicidal behaviour in custody.
11. One reason is that a high percentage of prisoners fit the characteristics of people who are at risk. The rate of self-inflicted deaths among the prison population is 140 per 100,000 people—among the general population it is 10.8 per 100,000 people.⁴ 46% of women prisoners report having attempted suicide at some point in their lives—more than seven times higher than the general population. Among male prisoners the rate is 21%.⁵ Almost a third (30%) of women in custody had a psychiatric admission prior to entering prison.⁶ More than half of women in prison (53%) and over a quarter of men report having experienced emotional, physical or sexual abuse as a child.⁷
12. Women in prison account for 21% of self-harm incidents.⁸ The reasons include histories of sexual abuse and trauma, guilt and distress at separation

² Prisons and Probation Ombudsman (2016) Learning lessons from PPO investigations: Mental health, London: PPO

³ Assessment, Care in Custody and Teamwork: framework to manage prisoners at risk of self-harm

⁴ Ministry of Justice (2017) Safety in custody statistics quarterly update to September 2016, London: Ministry of Justice

⁵ Ministry of Justice (2013) Gender differences in substance misuse and mental health amongst prisoners, London: Ministry of Justice

⁶ Department of Health Conference report: Sharing good practice in prison health 4/5 June 2007

⁷ Ministry of Justice (2012) Prisoners' childhood and family backgrounds, London: Ministry of Justice

⁸ Ministry of Justice (2016) Safety in custody quarterly update to June 2016, London: Ministry of Justice

from their children, and mental illness. Among men, 8% of self-harm incidents require hospitalisation.⁹ However, far too often, staff interpret self harming behaviour to be manipulative. Health care staff often collude in defining the behaviour this way. Training is only part of the answer.

13. **PRT recommends:** Prisons need to develop therapeutic understandings of self-harm which guide caring, supportive responses more likely to reduce risk and improve outcomes.
14. The pressure on prisons undermines their ability both to assess risk and reduce it. First, overcrowding and very high turnover generate an atmosphere in which prison and healthcare staff can become desensitized to the issues they encounter. Second, the pressure to “process” people through the system, often in the evening when staffing levels are drastically reduced, impacts on the quality with which checks are carried out. Third, the aspiration to create a socialized environment in which prisoners feel valued, have opportunities for personal growth, and hope, is most distant in those prisons which offer the poorest regimes.
15. Prisons prevent self-inflicted deaths when they maintain decency, safety, care, and purposeful activity, and where, as a result, all prisoners are less likely to suffer distress. Measures designed to prevent self-inflicted deaths are important, but they cannot supplant the need to eliminate the overcrowded prisons which offer a manifestly inadequate way of life to people who we know are unusually vulnerable.

The safety of the prison

16. Achieving safety is a complex task, involving:
 - meeting the basic human needs of all prisoners;
 - protecting all prisoners from victimisation;
 - providing sufficient purposeful activity and positive benefits to inspire hope; and
 - established mechanisms by which prisoners can resolve conflicts that arise among them.¹⁰
17. Relationships with staff are crucial. The flow of communication between staff and prisoners underpins every aspect of safety, helping to prevent self-harm, violence and contributory behaviours including the smuggling of drugs, extortion and bullying. The best staff exhibit extraordinary skill in communication, operating a complex set of boundaries with instinctive

⁹ Ministry of Justice (2017) Safety in custody statistics quarterly update to September 2016, London: Ministry of Justice

¹⁰ Edgar, K (2014) ‘Making prisons safe’, online:
<http://www.prisonreformtrust.org.uk/Portals/0/Documents/Making%20Prison%20Safe.pdf>

discretion. Professor Alison Liebling's work on the central role of prison officers in maintaining a safe environment is essential reading.¹¹

18. Dynamic security is put at risk by insufficient numbers of officers on the wings, as was recognised by the Justice Committee:

". . . the fall in staffing levels stemming from redundancies and increased turnover, which at their most acute have resulted in severely restricted regimes, are bound to have reduced the consistency of relationships between officers and prisoners, and in turn affected safety."¹²

19. The conventional response to violent incidents tends to focus on punishment and separation. This presumes a sharp distinction between perpetrators and victims. Yet mutual harm features in the background to most violent incidents and people who are segregated following a fight or assault are more likely than those segregated for other reasons to say they have a problem with self-harm.¹³

20. Similarly, following an analysis of self-inflicted deaths among young adults, the Prisons and Probation Ombudsman cautioned:

"Many young adults exhibited challenging behaviour, being abusive and violent to towards prisoners and staff, and ignoring instructions. Prison staff tried to manage this using disciplinary charges and other sanctions, but needed to be aware that challenging behaviour can also mask vulnerability and mental health problems. A more balanced, consistent and holistic approach was needed."¹⁴

21. **PRT recommends:** Rather than basing violence reduction on the labelling of individuals, prisons should be responding to anti-social behaviour, setting clear boundaries within which everyone feels protected. As an Expectation used by the prisons inspectorate states:

"Everyone feels and is safe from victimisation (which includes verbal and racial abuse, theft, violence and assault or threats)."¹⁵

22. Achieving safety is possible in institutions that are not unfairly pressured - by overcrowding, by under-resourcing, or by continual changes in function or strategic direction. They require reasonably settled staff teams with a mixture

¹¹ See for example, Liebling, A, *et al.*, (2011) *The Prison Officer*, 2nd edition, Cullompton: Willan Publishing

¹² Justice Committee: *Prisons: Planning and Policies: 9th report of session 2014–15*, London: HM Stationery Office

¹³ PRT correspondence with NOMS, drawing on Shalev, S. and Edgar, K. (2015) *Deep Custody: Segregation units and close supervision centres in England and Wales*, London: Prison Reform Trust

¹⁴ Prisons and Probation Ombudsman (2014) 'Lessons need to be learned from suicides of young adults in prison', online: <http://www.ppo.gov.uk/wp-content/uploads/2014/08/PPO-LLB-young-adult-suicides-news-release-final.pdf>

¹⁵ HM Inspectorate of Prisons (2014) *Expectations: Criteria for assessing the treatment of and conditions for women in prison*, London: HM Inspectorate of Prisons

of experience, and, above all, time for prisoners and staff to work together in the collaborative exercise of creating a safe prison.

Access to specialist mental health services

23. Alternatives to custody are available to judges and magistrates when sentencing individuals found guilty of a crime. Prison does not have to be the default position for many offences; where used appropriately, community sentences can provide safe and positive opportunities for offenders with mental health problems or learning disabilities to progress with their lives, as well as receiving a proportionate sanction from the court (The Bradley Report, 2009).
24. **PRT recommends:** Reasonable adjustments for individuals with a disability should be routinely made for offenders on community orders and in prison.
25. In 2014 only 960 MHTRs were issued in England and Wales as part of a community order.¹⁶ An obstacle is that courts cannot order an MHTR without the cooperation of the health authority. Where the mental health problem is a disability, it should be possible for courts to require reasonable adjustments which will facilitate a community sentence. Otherwise, the person is imprisoned because of their disability (which is unjust and inconsistent with the Equality Act).
26. **PRT recommends:** A change in legislation to establish the duty of courts to demand reasonable adjustments to support people whose disability requires it, including people with learning disabilities or disabling mental health problems.

Maintaining family relationships

27. Contact with families is often vital to mental wellbeing. The Prison Reform Trust's study, *There when you need them most*,¹⁷ revealed that distress during the first week of custody is commonly related to unresolved problems or responsibilities outside. Relationships have suffered an abrupt and profound transition, and prisons must make extra efforts to meet these needs.
28. With these pressures in mind, it is prison policy that people receive a free phone call within 24 hours of arrival, subject to risk assessment. PRT's Advice and Information line has gathered evidence that suggests that there are sometimes substantial delays. The Prisons Inspectorate reported that only 47% of adult men and 64% of those under 21 receive this free phone call.¹⁸

¹⁶ Parliamentary written question HL2319, asked on 17 September 2015 by Lord Bradley

¹⁷ Jacobson, J, Edgar, K. and Loucks, N. (2007) *There when you need them most: pact's first night in custody services*, London: Prison Reform Trust

¹⁸ HM Chief Inspector of Prisons (2016) *Annual Report 2015–16*, London: HM Stationery Office

29. In 2015–16, the inspectorate found that throughout the period of custody 26% of prisoners had problems getting access to phones (39% in local prisons).¹⁹ Staff shortages have been a factor, making access to telephones unpredictable as periods of association have been curtailed. More limited time out of cell often leads people to have to choose between collecting medication, having a shower or phoning their family.
30. Telephone charges, especially to a mobile phone, continue to be exorbitant. Phone calls are part of maintaining family support for people in custody, but the charges take advantage of people in a vulnerable situation.

Purposeful activity

31. The European Prison Rules recognise the contribution that activities make to a safer environment. The social order:
- "... is maintained by taking into account the requirements of security, safety and discipline, while also providing prisoners with living conditions which respect human dignity and offering them a full programme of activities."²⁰
32. Evidence gathered by the prisons inspectorate shows an abrupt decline in purposeful activities which coincided with an increase in self-harm and self-inflicted deaths. In 2014–2015, the Chief Inspector reported: "Purposeful activity outcomes in adult male prisons had deteriorated markedly this year with only around a quarter of adult male prisons assessed as good or reasonably good. Outcomes were at their lowest level since we first began to collate them annually in 2005–06."²¹
33. The British Psychological Society explained the link between reduced time out of cell and self-harm:
- "Regime changes tend to have a destabilising effect on prisoner populations, as demonstrated by the significant increase in self-harm incidents resulting from longer hours spent locked in their cells due to the reduction in staff numbers."²²
34. Prisoners Voices (PRT, 2008) found that prisoners with learning disabilities or difficulties were more likely to spend time alone with little to occupy themselves than prisoners without such disabilities/ difficulties.²³

¹⁹ HM Inspectorate of Prisons (2016) Life in prison: contact with families and friends, London: HM Stationery Office

²⁰ Council of Europe (2006) European Prison Rules, 2006, Rule 49; online: <http://www.coe.int/t/DGHL/STANDARDSETTING/PRISONS/PCCP%20documents%202015/EUROPEAN%20PRISON%20RULES.pdf>

²¹ HM Chief Inspector of Prisons (2015), Annual Report 2014–15, London: HM Stationery Office

²² Written evidence from the British Psychological Society (PPP 17) Justice Committee: Prisons Planning and Policy

²³ Talbot, J. (2008) Prisoners' Voices: Experiences of the criminal justice system by prisoners with learning disabilities and difficulties, London: Prison Reform Trust

35. More generally, in his annual report 2015-2016, the Chief Inspector stated that, "38% [of young adult prisoners] said they spent less than two hours a day out of their cell."²⁴
36. **PRT recommends:** NOMS should make better use of release on temporary licence and active citizenship inside prison to increase the opportunities for purposeful activity. Expanding such opportunities are particularly urgent, as constructive use of time fosters hope and reduces distress.

Solitary confinement

"Too often, prisoners identified as at risk of suicide and self-harm and being managed under ACCT procedures were held in segregation units without sufficient evidence that staff had considered other options or identified exceptional circumstances to justify their segregation."²⁵

37. The Prison Reform Trust's report on segregation, *Deep Custody*, by Sharon Shalev and Kimmett Edgar,²⁶ identified factors contributing to the number of people vulnerable to self-harm being held in segregation units:
- A lack of reasonable adjustments to enable people with mental ill-health or learning disabilities to manage in prison;
 - A failure of health care staff consistently to identify people whose mental health is likely to deteriorate if segregated;
 - Poor regimes in segregation units, imposing conditions likely to cause harm to mental wellbeing.
38. *Deep Custody* found that healthcare staff tended to defer to prison staff in operational matters and very rarely raised concerns, either during the initial assessment or subsequently when deterioration was evident.
39. The UN Nelson Mandela Rules²⁷ requires prison governors to consider - prior to imposing a disciplinary sanction—"whether and how a prisoner's mental illness or developmental disability may have contributed to his or her conduct and the commission of the offence or act underlying the disciplinary charge." (Rule 39)
40. While prison service policy echoes this human rights standard, the number of segregated people who have learning disabilities or difficulties suggests that

²⁴ HM Chief Inspector of Prisons (2016) Annual Report 2015–16, London: HM Stationery Office

²⁵ Prisons and Probation Ombudsman (2015) Learning Lessons Bulletin #8: Segregation, London: PPO

²⁶ Shalev, S. and Edgar, K. (2015) *Deep Custody: Segregation units and close supervision centres in England and Wales*, London: Prison Reform Trust

²⁷ United Nations General Assembly (2015) The Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules); online <https://cdn.penalreform.org/wp-content/uploads/1957/06/ENG.pdf>

the rule is not being upheld consistently. No One Knows: Prisoner Voices, by Jenny Talbot, estimated that people in prison who have learning disabilities or learning difficulties were three times more likely to be placed on a segregation unit.²⁸ Segregation managers should work with mental health professionals to ensure that alternatives to segregation are pursued more vigorously.

41. The UN Nelson Mandela Rules, Rule 46, places duties on health care in segregation, to:
- assess the mental state of every person on arrival and inform managers of any concerns;
 - provide MH care to everyone who has been segregated and monitor for signs of any deterioration; and
 - recommend changes to the regime or treatment of an individual, or to the environment or regime to reduce the harmful impact of segregation.
42. **PRT recommends:** Improved training should be delivered to health care professionals clarifying the nature of their role in completing the safety screen, which is to identify any vulnerabilities that may adversely affect the person being segregated, and to alert the manager responsible for the decision to segregate. Safety screens must be conducted more rigorously to provide protection for people in these circumstances.
43. Deep Custody concludes that segregation should be applied far more sparingly—less often, and for shorter periods.
44. **PRT recommends:** Every segregation unit should reduce the harmful impact of segregation, through:
- providing prisoners with something to do;
 - increasing the frequency and quality of personal contact; and
 - doing more to reduce the duration of segregation.

Learning lessons

45. In addition to recommendations made in the body of this submission, the Prison Reform Trust calls for:
- Mental health courts (piloted in Stratford and elsewhere) to be replicated more widely to enhance the effectiveness of liaison and diversion in reducing the reliance on custody.
 - Mental health in-reach teams to be strengthened, with greater seniority and better support in maintaining professional standards of independence.

²⁸ Talbot, J. (2008) Prisoners' Voices, London: Prison Reform Trust

- Increased mental health training for prison officers, prison health workers.
- Establishing regular visits of a community mental health team to prisons.
- Enabling prisoners to access health services outside the prison setting.
- Greater availability of domestic violence support programmes for women in prison.

46. Above all, we believe that the core values, which remain the professional aspiration of prison governors, directors and staff, can only be delivered consistently when there is a reasonable balance between the needs of the population and the resources available. There is inevitably a judgement involved in deciding what that balance is in each establishment. But in the least settled and most pressured prisons, the last few years have demonstrated that the consequences of getting that balance wrong are lives needlessly lost.

47. The government's response to that crisis currently relies far too heavily on the uncertain recruitment of new prison officers. Even if it manages to deliver its promised ratio of one prison officer to every six prisoners, on which details are currently lacking, the corrosive impact of overcrowding will remain, forcing continual ferrying of prisoners between prisons regardless of their or their families' interests and undermining respect and decency. Shockingly, the government has no ambition to end overcrowding, still less any plan to achieve it.

48. There is no "halcyon era" to look back to in our prisons, but the first decade of this century did see significant reductions in self-harm and suicide, and the reversal of that progress coincides precisely with a sudden and self-inflicted reduction in the resources available. An imperfect, overcrowded system was able to mitigate the impact of the overuse of custody when it was more generously resourced, but has been unable to do so with that protection removed. The opportunity exists for the government dramatically to reduce the workload of prisons, allowing all to approach the standards of the best, rather than apply expensive sticking plaster. But as matters stand, there is little evidence that its vision of "reform" includes seizing that opportunity.