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18<sup>th</sup> April 2018

Dear Sir

**Re: Report of an Independent Investigation into the Case of AC commissioned by the Secretary of State for Justice in accordance with Article 2 of the European Convention on Human Rights**

Thank you for your letter dated 28 April 2017 regarding the above investigation and detailing the Secretary of State for Justice's conclusion to the hearing. In your letter you informed NHS England that the public scrutiny element of Article 2 ECHR can be met by the publication of Rob Allen's investigation report alongside the HMPPS response to the report's recommendations and the supplementary information provided about the changes that have occurred in relation to the prescribing of anti-psychotic medication.

The information provided below is our update to recommendation G of Mr Rob Allen's report. Supporting documentation to substantiate the work NHS England has undertaken to address the recommendation is attached.

**Recommendation G:**

**The partners involved in providing health care to prisoners with mental health problems must be absolutely clear about which service or services have responsibility for prescribing anti-psychotic medication and develop systems to ensure it is prescribed in a timely fashion**

By way of background information this incident occurred in June 2010 when the healthcare at HMP Brixton was commissioned by Lambeth Primary Care Trust. Care UK provided primary healthcare and sub-contracted South London and Maudsley NHS Foundation Trust to provide secondary mental health and substance misuse services.

The Article 2 investigation was commissioned in December 2012 and the

subsequent visits and interviews were conducted during June – September 2013. This was only a few months after the establishment of NHS England (whose correct legal identity is the NHS Commissioning Board but is more commonly known as NHS England) and transfer of responsibility of commissioning prison healthcare from London Primary Care Trusts to the Health in the Justice team to NHS England London Region on 1 April 2013. NHS England and its predecessor (Lambeth PCT) are responsible for commissioning healthcare from healthcare providers and do not provide the service

NHS England (London Region) Health in the Justice System team, in its role as commissioner, re-procured the healthcare provision at HMP Brixton through a thorough tendering process. Care UK remain the prime provider and now sub-contract Barnet, Enfield and Haringey Mental Health Trust to provide mental health services. This procurement commenced in June 2013 and resulting contract commenced on 1 May 2014. NHS England commission healthcare in prisons using an outcomes based service specification and stipulates:

*'The medical service will work with the mental health team in the delivery of primary mental health services within a stepped care model. This will involve the management, monitoring and review of patients whose mental health/dual diagnosis issues are of a degree of severity where they would normally be managed within Primary Care. The medical service will be the prescriber for this patient group including the provision of medication or treatment in accordance with a documented care plan and desired outcomes. This will require multidisciplinary and collaborative working with mental health practitioners'*

NHS England (London) Health in the Justice System team is responsible for the performance management of the healthcare contract. The lead provider, CareUk, is required to submit quarterly data on a range of qualitative and activity based key performance indicators. This includes data on the numbers of prisoners with mental health problems and interventions delivered. The provider also submits data on patient safety and other incidents that occurred every quarter with analysis where required.

NHS England was first made aware of this investigation and subsequent report in July 2015 and has fully co-operated and responded to requests for information. NHS England would like to provide the following further information in response to the above recommendation and subsequent questions from Her Majesty's Prison and Probation Service (HMPPS):

**1. Provide clarity over who was responsible for the non-prescribing of AC's anti-psychotic medication.**

NHS England are unable to confirm who was responsible for the non-prescribing of the antipsychotic medication because this predates NHS England and we were not involved in the subsequent clinical investigation. Therefore, this information is likely to be available to either the healthcare and/or mental healthcare providers who were engaged in the medicines policies and procedures at the time of the incident.

However in any patient/prescriber consultation, the decision to prescribe (or not prescribe) a medicine rests with the clinician who sees the patient. They take into account the presenting symptoms, diagnoses from this assessment, the safety of prescribing the medicine and the medicines and diagnoses history available to them to inform their clinical conclusions and decisions.

## **2. Could this situation happen at HMP Brixton again now?**

In order to minimise any risk to patients in relation to their prescribed medication, Care UK has a protocol in place between the prescribing leads at HMP Brixton, which sets out the process for the prescribing of anti-psychotic medication (attachment A) which has been previously shared with HMPPS. The local mental health and primary care teams hold complex case management meetings every 2 weeks with additional weekly meetings for those in more acute psychiatric crisis to ensure decisions on care and treatment planning are considered alongside any other key factors to maximise patient safety.

NHS England (London) Health in the Justice System team developed a set of medication audits for providers to undertake and report back on their findings and lessons learned in 2016-17. The purpose of the audits was to ensure good local and regional governance is in place to better manage the administering of medication in secure settings. Our colleagues in the medical and nursing directorate alongside our national pharmacy lead were consulted during the production of the clinical audits

NHS England holds quarterly contract review meetings with the healthcare provider, Care UK. The agenda covers a range of topics and includes a review of a range of performance indicators including primary care clinic utilisation, specialist care in respect of case management for those with serious mental illness as well as access to individual and group therapeutic interventions. The quality element of the contract management asks providers to demonstrate their management of serious and non-serious incidents and analysis of patient complaints and the provider response. Any concerns raised during these review meetings are discussed with the provider, necessary improvement work is agreed and its implementation monitored by the commissioners on an on-going basis.

For the contract year 2017/18 NHS England (London) Health in the Justice System team has introduced a quarterly Clinical Quality Review Group ("CQRG") with healthcare providers to examine the effectiveness of the audit and incident process which includes themed deep dives into specific areas of work using Key Lines of Enquiry (KLOEs). The CQRGs are clinically led and are aligned with quarterly contract and performance review meetings.

It should also be noted that since this incident HMP Brixton has been designated as a Category C prison. This means that prisoners admitted into HMP Brixton are transferred there from other HMP prisons. The transferring prisoner therefore arrives with their healthcare needs assessed by healthcare professionals at the transferring prison and where necessary, they have a treatment/care plan in place which includes any medication prescribed. This has had a significant impact on the volume and type of prisoners housed in the secure accommodation. Reception numbers are also significantly lower than before with the prison now seeing about 25 new

transfers into Brixton a week rather than the 75 new admissions per week as was the case in 2010.

Every prisoner should have a medical record on SystmOne (the national prison patient record system) which would have been initiated by the healthcare services in the prison(s) responsible for the care and treatment of that prisoner prior to his transfer to Brixton. The medical record of every prisoner coming to Brixton is therefore checked by healthcare services and discussed with the individual upon his arrival. This includes a formal medicines reconciliation<sup>1</sup> as recommended by NICE guidance which enables improved continuity of medical treatment.

We draw attention to the joint announced HMIP and CQC inspection report conducted in November 2014 and published in December 2014 which can be found [here](#). The section below provides specific report feedback relating to medicines management at HMP Brixton:

2.59:

*Pharmacy services were very good and access to on-wing pharmacy clinics represented exemplary practice.*

*Medicines management was very good but safe administration of medicines was sometimes compromised by a lack of supervision on the wings. Mental health services had been improved by being fully integrated with a wider staff skills mix and an impressive array of therapeutic options.*

2.60

*Health services were commissioned by NHS England London and provided by Care UK with some activities sub-contracted to other providers. The health needs assessment is due to be repeated following the change to the prison's population. A draft version has been completed and is under-going factual accuracy checking. Oversight of performance and clinical governance was good, with collaborative working relationships. In our survey, more prisoners than at comparator prisons (51% versus 42%) said that the overall quality of health care was good.*

A further unannounced joint inspection conducted in January 2017 and published in June 2017 can be found [here](#). This report provides comments on the pharmacy service including wing-based administration and in-possession medicines. It highlights the good practice regarding the comprehensive and wide ranging pharmacy service noting that medicines were supplied in a timely and appropriate way.

The Inspectorate mentioned that there was no system of follow-up when a prisoner missed multiple medicine administrations. The requirement to identify and follow-up omitted doses forms part of the Standards published by the Royal Pharmaceutical Society in February 2017 (attached at Attachment B). This means that providers will have procedures in place to monitor omitted doses of critical medicines, which includes anti-psychotics, within 24 hours of omission and to follow-up omitted doses of other medicines when up to three doses have been missed. Adherence to these standards will be monitored by commissioners as part of the contract and performance monitoring.

Whilst NHS England reiterates that there have been improvements for the reasons identified above, it is acknowledged that there is always the need for continuing learning. Therefore, following receipt and review of this independent investigation NHS England London Region have elected to commission an external review to:

- To review healthcare providers' clinical governance arrangements and assurance of quality across Primary Care, Mental Health, Substance Misuse and other services;
- To review the effectiveness and quality of medicines management in particular the protocol for the prescribing of anti-psychotic and other mental health medication and its implementation in practice
- A dedicated review was undertaken in September 2017 with final report in October 2017 in relation to the prescribing of anti-psychotic and other mental health medication by assessing the application of provider's current policies and procedures (attached as Attachment C) This report will be presented to the Prison Health Partnership Board in March 2018 where all contracted healthcare providers will attend including our colleagues in HMPPS. This report will be the focus of the March Clinical Quality Review Group in March 2018.
- The next stage of our quality assurance framework reviews will address the partnership clinical governance arrangements within London prisons. A team of independent reviewers has been appointed, and they will visit and audit all London prisons between August and November 2018.
- Any findings or recommendations will be shared across NHS England Health & Justice commissioning teams for implementation

### **3. Has any action been taken to reduce the possibility of this situation occurring at other prisons?**

In 2016, NHS England collaborated with the Royal Pharmaceutical Society who published Professional Standards for Medicines Optimisation in Secure Environments in February 2017 (attached as Attachment B). These replace the 2014 commissioning standards and apply to all organisations delivering care into health and justice commissioned services. The first domain in the standards "*Arriving and meeting people's initial medicines*" needs includes:

#### ***STANDARD 1: PEOPLE'S MEDICINE NEEDS ARE IDENTIFIED VIA INITIAL RECEPTION SCREENING***

*1.1 People's initial medication history, including allergies, is captured and recorded, a full medicines reconciliation is commenced and completed within 72 hours of admission.*

*1.2 Critical medicines needed by people are accessed and continued during and outside healthcare and pharmacy core hours*

An audit tool is planned by March 2018 to provide assurance that organisations are meeting these standards. The national health and justice indicators of performance have been revised for 2017/18 to include delivery of medicines reconciliation and medicines provision on transfer between prisons.

NHS England has published a briefing in September 2017 (attached as Attachment D) on the safer use of mental health medicines in health and justice. This will clarify good practice and service delivery expectations, including shared care, relating to initiating, continuing and reviewing mental health medicines.

- The IT developments:
  - Electronic prescribing and medicines administration was rolled out to all prisons in 2016. This minimises risks as all clinicians will have sight of all medicines prescribed for and administered/supplied to all prisoners.
  - National clinical templates for the completion of reception screening (1<sup>st</sup> screening tool on arrival), medicines reconciliation and the second health assessment (comprehensive health assessment) are being introduced during 2018. This will embed the recommendations from NICE guidance into practice.
  - NHS England signed a contract in October 2017 with a supplier to improve the current provision of clinical IT in prisons, immigration removal centres and secure children's facilities. The forthcoming enhancements will include the ability to share patient data and improve the continuity of care, for those entering and leaving the residential estate. The implementation of new functionality will commence in October 2018 and the ability to share patient data between community and residential estate settings is planned to be rolled-out by February 2020.
  - As a result of this programme of work, healthcare services in the residential estate can already access the Summary Care Record via a secure web link, which allows essential clinical information to be made available
  
- Since April 2014 healthcare services in prisons are commissioned using the single service specification that covers all the separate services needed. This replaces the system where separate contracts were commissioned and monitored for medical, dental, mental health, substance misuse, and pharmacy services. This lead provider approach means that there are clear responsibilities and accountabilities with this provider for delivering high quality services which they provide directly or subcontract to a third party. The lead provider performance is monitored against the service specifications and standards. The commissioning process has also been strengthened to ensure the quality of the services proposed by potential providers will be met and that there are robust of partnerships proposed to deliver them.

I hope that the above updated response provides assurance that the actions taken by NHS England in addressing the findings and recommendations made in the Article 2 investigation report.

Yours sincerely

A handwritten signature in black ink, appearing to read 'S. Powis', written in a cursive style.

**Professor Stephen Powis**  
**National Medical Director**  
**NHS England**

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<sup>i</sup> Medicines reconciliation, as defined by the Institute for Healthcare Improvement, is the process of identifying an accurate list of a person's current medicines and comparing them with the current list in use, recognising any discrepancies, and documenting any changes, thereby resulting in a complete list of medicines, accurately communicated