



National Offender  
Management Service



Public Health  
England

**NHS**  
*England*

## **National Partnership Agreement Between:**

**The National Offender Management  
Service, NHS England and Public Health  
England for the Co-Commissioning and  
Delivery of Healthcare Services in  
Prisons in England**

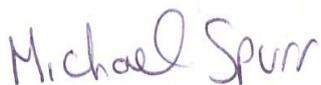
**2013**

# Joint Statement

This agreement sets out the shared strategic intent and joint commitment for the National Offender Management Service (NOMS) and NHS England (formerly the NHS Commissioning Board (NHS CB)) to work together for the purposes of co-commissioning and delivering healthcare services, supported by Public Health England (PHE) in adult prisons in England.

We recognise our respective statutory responsibilities and independence, but will seek to collaborate and cooperate to achieve our shared aims of ensuring safe and effective care, which improves health outcomes for offenders, reduces inequalities, protects the public and reduces reoffending.

Collaboration must go beyond the words written in this document: it must be embedded into the way in which we work. This may mean working in different ways to enable us to make the difficult decisions that will set the direction for transformational change, and improving outcomes.



Michael Spurr  
Chief Executive Officer  
**NOMS**



Ann Sutton,  
Director of Commissioning  
(Corporate)  
**NHS England**



Professor Kevin Fenton  
National Director of Health  
and Wellbeing  
**Public Health England**

# 1. Context and Shared Purpose

## Health and Offending

- 1.1 Offenders are more likely to smoke, misuse drugs and/or alcohol, suffer mental health problems, report having a disability, self-harm, attempt suicide and die prematurely compared to the general population. The links between poor health and reoffending have been long understood. For example, evidence suggests:
- Drug users are estimated to be responsible for between a third and a half of acquisitive crime<sup>1</sup> and treatment can cut the level of crime they commit by about half<sup>2</sup>
  - Alcohol is a factor in an estimated 47% of violent crime<sup>3</sup> and A&E data sharing and targeted interventions have been shown to reduce overall A&E violence related attendances in one study by 40%<sup>4</sup>
- 1.2 The clear links between the wider determinants of health and factors affecting reoffending such as sustainable housing or employment create a potentially vicious circle. For example, offenders with addiction or mental health problems are more likely to need support with housing, education or employment to change their lives and prevent future victims, yet at the same time research shows these offenders will find it more difficult to access mainstream help than the general population. Increased health inequalities are therefore compounded by greater barriers to accessing services to meet those needs.

## A History of Partnership Working

- 1.3 A formal National Partnership Agreement has existed for Offender Health Services in public sector prisons in England since 2003. The original agreement, between the Home Office and the Department of Health, was developed to coincide with the Ministerial decision to transfer responsibility for policy and funding of healthcare in prisons from HM Prison Service to the

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<sup>1</sup> MacDonald, Z., Tinsley, L., Collingwood, J., Jamieson, P. and Pudney, S. (2005). *Measuring the harm from illegal drugs using the Drug Harm Index*. Home Office Online Report 24/05.

<http://webarchive.nationalarchives.gov.uk/20110218135832/rds.homeoffice.gov.uk/rds/pdfs05/rdsolr2405.pdf>

<sup>2</sup> National Treatment Agency (2012) *Estimating the crime reduction benefits of drug treatment and recovery* [www.nta.nhs.uk/uploads/vfm2012.pdf](http://www.nta.nhs.uk/uploads/vfm2012.pdf)

<sup>3</sup> Crime Survey for England and Wales: Nature of Crime tables 2011/12 <http://ons.gov.uk/ons/rel/crime-stats/crime-statistics/nature-of-crime-tables--2011-12/index.html>

<sup>4</sup> Effective NHS Contributions to Violence Prevention: the Cardiff Model - [www.vrg.cf.ac.uk/Files/vrg\\_violence\\_prevention.pdf](http://www.vrg.cf.ac.uk/Files/vrg_violence_prevention.pdf)

Department of Health. A second revised National Partnership Agreement<sup>5</sup> was published in 2007 to coincide with the transfer of responsibility for Escort and Bedwatch services and the start of devolution of responsibility for Prison Health commissioning from the Department of Health to NHS Primary Care Trusts (PCTs) which was completed in 2009.

- 1.4 Since the publication of the last National Partnership Agreement in 2007, there has continued to be a number of transfers of further responsibility between the National Offender Management Service and the Department of Health such as non-clinical psycho-social drug treatment (Counselling, Assessment, Referral, Advice and Throughcare service (CARATs)) and the introduction of new services such as the Integrated Drug Treatment System (IDTS). **Annex A** summarises the history of partnership working around the transfer of prison health functions to the Department of Health.
- 1.5 The previous National Partnership Agreement has formed the basis of many of the core instructions and Service Specifications within NOMS (see **Annex B**) as well as providing the basis for historical local partnership agreements which underpinned local prison partnership boards which brought together senior leaders from establishments and healthcare providers across England.
- 1.6 In 2010 the Coalition Government announced proposals for significant reforms of the way in which Health is commissioned and supported in England which require a new approach and commitment to partnership working between NOMS and the new NHS England and Public Health England.

## The New Commissioning Landscape for Health and Justice

- 1.7 In March 2012, the Health and Social Care Act received royal assent. The Act introduced significant restructuring of healthcare services in England from April 2013, including the abolition of Strategic Health Authorities and Primary Care Trusts. It created an independent NHS commissioning board – NHS England - with responsibility for commissioning ‘services and facilities for people in prison and other places of detention’ and also resulted in the formation of Public Health England (PHE). The responsibilities of the new NHS England cover both public and contracted prisons and therefore effectively complete the transfer of responsibility for prison healthcare to the NHS.
- 1.8 From April 1 2013, NHS England became responsible for commissioning all health services (with the exception of some emergency care, ambulance services, out of hours and 111 services) for people in prisons in England through ‘Health and Justice’ commissioning teams in 10 of NHS England’s 27 Area Teams, supported by a small national Health and Justice team. This expands the range of healthcare services which are directly commissioned for prisons, in particular with new responsibility for commissioning secondary care, community services and public health services, including substance misuse

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<sup>5</sup>[http://webarchive.nationalarchives.gov.uk/+/www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH\\_064096](http://webarchive.nationalarchives.gov.uk/+/www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_064096)

services (under a section 7a agreement with the Department of Health) in addition to continued commissioning of dentistry and optometry.<sup>6</sup>

- 1.9 The Mandate between the Department of Health and NHS England published in November 2012 sets out key expectations of the Department in relation to working with people in prison, including improving the transition between custody and the community and developing liaison and diversion services, specifically:

*Developing better healthcare services for offenders and people in the criminal justice system which are integrated between custody and the community, including through development of liaison and diversion services*<sup>7</sup>

- 1.10 The reforms to the health system in England have also abolished the National Treatment Agency and the Health Protection Agency, both of which have had a key role in services delivered to offenders and created a new body Public Health England. Some of the former functions of these agencies will now be taken forward within Public Health England led by a Health and Justice team matrix working with wider PHE functions such as Alcohol and Drugs advisors.
- 1.11 The PHE Health and Justice Team will work in partnership with NHS England commissioners in support of their responsibility for commissioning public health functions in prisons, at national and local level. In addition to the national team, ten Health & Justice Public Health Specialists will be located in PHE Centres, mapping to those ten NHS England Area Teams with specialist Health & Justice commissioning teams.

## The New Partnership Agreement

- 1.12 Health and justice services are interdependent and work together to deliver a system which is safe, legal and decent and which delivers both health and re-offending outcomes for the prisoner/patient. As independent organisations responsible for commissioning interdependent offender services, it is essential that NOMS and NHS England align their priorities and resources.
- 1.13 This agreement between NOMS, NHS England and Public Health England marks the start of a new chapter in working in partnership and replaces all previous National Partnership Agreements and related instructions from the Department of Health with respect to healthcare services in prisons in England. It reflects a renewed desire to develop a shared understanding of how both NOMS and NHS England can work together to co-commission<sup>8</sup> and deliver health services supported by Public Health England which change and save lives.

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<sup>6</sup> See [www.wp.dh.gov.uk/publications/files/2012/11/29-People-in-prison-specification-121025.pdf](http://www.wp.dh.gov.uk/publications/files/2012/11/29-People-in-prison-specification-121025.pdf)

<sup>7</sup> The Mandate, A mandate from the Government to the NHS Commissioning Board: April 2013 to March 2015, Department of Health, November 2012, p25

<sup>8</sup> NOMS defines the term co-commissioning to be where two or more commissioning organisations align their commissioning systems and priorities for the purpose of achieving shared outcomes while retaining separate responsibility for managing their own resources to support this. It is not therefore the same as joint commissioning or pooled commissioning, and commissioned resources may be aligned at a strategic as opposed to a service-by-service commissioning level.

1.14 The agreement is not intended to be legally binding and no legal obligations shall arise from the provisions of the agreement. The purpose of this agreement is to set out the intentions of the parties for the co-commissioning of services and delivery accountabilities.

1.15 NHS England, Public Health England and NOMS commit to support this agreement corporately and therefore it will apply to all co-commissioning activity and delivery at all levels within the organisations. Commitments in this agreement need not therefore be re-negotiated in local partnerships as these are also covered by this national agreement. The agreement shall also apply to sub-contracting and delegated commissioning arrangements (for example commissioning of substance misuse services through a section 75 agreement with a local authority). Contracts for healthcare services in prisons should not seek to replicate commitments in this agreement but instead should reference this, and any local delivery agreements based on it, to ensure consistency of approach and recognise the principle of partnership which this is based on.

## Scope

1.16 For the purposes of this agreement, the scope of commissioned services includes:

- All healthcare for remand and sentenced prisoners in establishments commissioned by NOMS<sup>9</sup> (with the exception of emergency care, ambulance services, out of hours and 111 services) including:
  - Primary care (including pharmacy, optician & dentistry services)
  - Planned secondary care (including outpatient, diagnostic and inpatient services)
  - Community care services (including mental health services)
  - Public health (including health promotion, immunisation and infection control<sup>10</sup> and clinical and non-clinical substance misuse services)
- Sentenced and remand prisoners over the age of 18 years of age in both public sector and contracted prisons in England<sup>11</sup>
- Personality Disorder services for offenders who are high risk of harm (men) and high risk of reoffending (women) which are jointly funded and commissioned by NOMS and NHS England<sup>12</sup>

1.17 In addition, the following non-commissioned services are also in scope of this agreement:

- Public Health advice including on infection control and management of outbreaks of infectious diseases, provided by Public Health England

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<sup>9</sup> This recognises that HMPS also provides custodial services to the Youth Justice Board and Home Office which will be subject to separate agreements with NHS England.

<sup>10</sup> NHS England is supported in this function by Public Health England for prisoners and those on remand.

<sup>11</sup> The agreement covers health services for offenders in prisons in England only, recognising that NOMS, unlike NHS England is also responsible for commissioning prison and probation services in Wales. This agreement does however cover services for Welsh prisoners held in English Prisons.

<sup>12</sup> Personality Disorder Services including those for offenders, like Offender Health are a direct commissioning function of NHS England, but are commissioned as part of Specialised Commissioning as opposed to Offender Health Commissioning.

through its local Centres and supported by the national Health & Justice Team

- The recommendations by NHS providers, to transfer prisoners under the Mental Health Act 1983, to secure hospital provision, for decision by the Justice Secretary on whether to direct such transfer, and their subsequent case management as restricted patients by the Mental Health Casework Section (NOMS) and management of those returned to prison under section 50 of the Mental Health Act

## Roles

- 1.18 Reducing health inequalities and improving health, wellbeing and justice outcomes for offenders are shared commissioning and delivery goals for NHS England, the National Offender Management Service (NOMS) and Public Health England. However, each organisation has different responsibilities and clearly defined roles in achieving these outcomes.

### *NHS England*

- 1.19 NHS England (formerly the NHS Commissioning Board<sup>13</sup>) is a non-departmental public body which operates within the wider health and social care system. Its overarching role is to ensure that the NHS delivers continuous improvements in outcomes for patients within the resources available. NHS England will fulfil this role through its leadership of the reformed commissioning system. Working in partnership with clinical commissioning groups (CCGs) and a wide range of stakeholders, it will secure better outcomes, as defined by the NHS Outcomes Framework; it will actively promote the rights and standards guaranteed by the NHS Constitution; and will secure financial control and value for money across the commissioning system.
- 1.20 The new system of commissioning for the NHS requires NHS England to provide national consistency in areas like quality, safety, access and value for money. In addition to the services PCTs previously commissioned in prisons (i.e. primary care, escort and bedwatch and mental health in-reach services), from April 2013 NHS England is responsible for commissioning planned secondary care, community services, and public health services including substance misuse services in prisons and continued commissioning of dentistry and optometry.
- 1.21 NHS England's single operating model for commissioning health services in prisons and other places of detention is set out in *Securing Excellence for Offender Health*.<sup>14</sup> First published in February 2013, this document was developed in partnership with a wide range of organisations including NOMS.
- 1.22 For the purposes of this agreement, NHS England is responsible for commissioning and contract/performance management of services for:

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<sup>13</sup> The NHS Commissioning Board changed to NHS England on April 1 2013

<sup>14</sup> See [www.england.nhs.uk/ourwork/d-com/off-health](http://www.england.nhs.uk/ourwork/d-com/off-health)

- Healthcare provision in all prisons including:
  - **Primary Care Services** - General Practice, Dentistry, Pharmacy, Optometry
  - **Planned Secondary Care Services** - Mental Health services (within the prison setting), Midwifery, Inpatient, Outpatients, Diagnostics
  - **Community Care Services** - Breastfeeding, Cardiac, Continence, Diabetes, End of Life, Health Visiting, Heart Failure, Long Term Conditions (e.g. Huntington's Disease, Cancer), Medicines Management, Mental Health (In-reach), Neurology, Nutrition, Occupational Therapy, Phlebotomy, Physiotherapy, Podiatry, Speech Therapy, Stoma Care, Stroke and Wound Care, Intermediate Care and in-reach District Nursing services
  - **Public Health Services** – Health Needs Assessment, Health Promotion, Immunisation & Vaccination, Infection Control<sup>15</sup>, Sexual Health, Smoking Cessation, Substance Misuse (Alcohol & Drugs)<sup>16</sup>
  - **Screening Services** - Antenatal & Newborn, Adult and Offender specific
  - Personality Disorder services for high risk of harm male and high risk of reoffending female offenders which are jointly funded and commissioned by NOMS and NHS England
  - Clinical IT systems and infrastructure
  - Clinical governance and clinical management of all healthcare services in public and contracted prisons<sup>17</sup>
  - Funding<sup>18</sup> and management of:
    - healthcare staff
    - the acquisition and maintenance of non-fixed free-standing items (e.g. furniture) and non-fixed capital equipment (e.g. trolleys, couches, etc.)
    - new/ replacement specialist clinical equipment e.g. X-ray equipment
    - medical consumables and clinical waste management and disposal
    - escort and bedwatches (as per national guidance)
    - clinical constant supervision
  - Supporting integrated care packages between NHS and local authority funded social care support
  - Tackling wider determinants of health including those which also contribute to reoffending
  - Supporting effective ‘through the gate’ services with transition to the primary care services which NHS England is also responsible for directly commissioning as well as services commissioned by CCGs and Local Authorities in England and Local Health Boards in Wales on release

<sup>15</sup> NHS England is supported in this function by Public Health England for prisoners and those on remand.

<sup>16</sup> As set out in the Section 7a agreement between the Department of Health and NHS England, see [www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/127242/29-People-in-prison-specification-121025.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/127242/29-People-in-prison-specification-121025.pdf).

<sup>17</sup> NOMS will review PSO 3100 - Clinical Governance and provide updated operational guidance to clarify the difference between the overarching duty of care Governors and Directors of prisons have to ensure the safety of all people in their establishments and assurance that appropriate systems are in place for Clinical Governance through the NHS.

<sup>18</sup> As part of the shared Development Priorities for 2013-14, reviews will be undertaken of responsibility for future funding of specific healthcare and healthcare enabling services and also current practice for agreeing and funding of constant supervision, (see development priorities 5 and 9)

- Clinical recommendations on the need to transfer prisoners under the Mental Health Act with restricted patient status, liaison with the Mental Health Casework Section of NOMS to obtain the Secretary of State's decision on whether to direct such transfer, and commissioning of mental health secure services
- Providing an automatic mental health referral for those charged or convicted of domestic murder
- Commissioning clinical reviews for deaths in custody in line with Prison and Probation Ombudsman (PPO) instructions
- Cooperating with and responding to health and wellbeing issues within HM Inspectorate of Prisons (HMIP) and Care Quality Commission (CQC) Inspections and reports, Independent Monitoring Board (IMB) reports, Coroner's reports to prevent other deaths and PPO investigations
- Healthcare related complaints
- Ensuring health contributions to emergency preparedness, contingency planning and incident response
- Taking forward the Department of Health Mandate for the NHS, in particular continuity of care for those leaving prison

### *The National Offender Management Service*

- 1.23 The National Offender Management Service (NOMS) is an Executive Agency of the Ministry of Justice (MoJ). Created in July 2008, its purpose is to protect the public and reduce reoffending by delivering the punishment and orders of the courts and supporting rehabilitation by helping offenders to reform their lives. NOMS keeps the public safe by ensuring that around 260,000 offenders are held safely and securely and undertakes the punishment of the courts through custodial (prison) or community sentences delivered by prison and probation providers in both England and Wales.
- 1.24 NOMS is responsible for commissioning and delivering adult offender services, in custody and in the community in both England and Wales, including cross-border movement. In addition, the Agency is responsible for providing custodial services both directly and under contract to other government departments through its delivery arm, the Public Sector Prison Service (HMPS).<sup>19</sup> The Agency is therefore both a commissioner and provider of custodial services. These different roles are reflected in the way in which the Agency is organised and the different but complementary roles of Directorates within it.<sup>20</sup>
- 1.25 The Agency commissions over £2 billion worth of custodial services each year including prisons and the Prisoner Escort and Custody Service (PECS) which is responsible for escorting detainees and prisoners between court and prisons. There are currently 120 prisons<sup>21</sup> in England (and a further 4 in Wales). The

<sup>19</sup> Her Majesty's Prison Service is also commissioned by the Youth Justice Board to provide places for youth offenders in Young Offender Institutions (YOIs) and the Home Office to provide Immigration Removal Centres (IRCs)

<sup>20</sup> See 'How NOMS Works' [www.justice.gov.uk/about/noms](http://www.justice.gov.uk/about/noms)

<sup>21</sup> On 4 September the Secretary of State for Justice announced further changes to the prison estate in England with the announced closure of four establishments and the re-roll of HMP The Verne to an Immigration Removal Centre. The number of prisons will therefore be reduced accordingly once these changes have been fully implemented.

<sup>22</sup> is contracted to independent providers and the rest are commissioned through a service level agreement (SLA) and run by Her Majesty's Prison Service (HMPS).

- 1.26 NOMS commissions around £1 billion of services each year for offenders in the community including Probation Trusts, private and voluntary providers (for example Electronic Monitoring, Approved Premises, Bail Accommodation and Support Services and Community Payback services) as well as direct provision by NOMS of the majority of adult and young peoples' Attendance Centres.
- 1.27 In addition to directly commissioned services, NOMS is involved in co-commissioning over £1 billion worth of services where it is not the lead commissioner but where those services are essential in providing decency and helping to reform and rehabilitate offenders. In England these include learning and skills (BIS/Skills Funding Agency), employment programmes and benefits advice (DWP/Job Centre Plus), and accommodation, family services, and social care (local government). In addition, the Agency also works closely with the Welsh Government as the majority of services which offenders in Wales need to access are devolved. Finally, NOMS is also a European Social Fund (ESF) Co-Financing Organisation.<sup>23</sup>
- 1.28 The Agency's commissioning model is set out in more detail in *An Introduction to NOMS Offender Service Commissioning*.<sup>24</sup> The range of offender services which NOMS commissions is set out in the NOMS Directory of Services<sup>25</sup> which is underpinned by a series of national mandatory minimum service specifications which are published in full<sup>26</sup>. These set out the mandatory minimum outcomes that all service providers commissioned by NOMS must meet in order to ensure that they are legal, safe, secure and decent. They do not set out how, or by whom, services should be delivered. The Agency also publishes information about its future Commissioning Intentions, information to support evidence-based commissioning and practice sharing guides to support better outcomes<sup>27</sup>
- 1.29 The Coalition Government has committed to transforming the way in which adult offenders are managed and rehabilitated,<sup>28</sup> including expanding supervision to those serving less than 12 months, reconfiguring the prison estate to create a network of 70 male resettlement prisons, commissioning services which deliver through the prison gate, engaging a wider range of providers through competition and paying providers by results. It is important for healthcare commissioners to understand and work closely with NOMS commissioners and providers to engage with criminal justice reforms, to ensure that the current health needs of the populations continue to be understood and commissioned provision continues to be aligned.

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<sup>22</sup> The proportion of establishments which are managed by the Public Sector Prison Service and contracted providers will continue to change to reflect the results of competition processes.

<sup>23</sup> For more information about NOMS CFO Activity visit <http://co-financing.org/>

<sup>24</sup> [www.justice.gov.uk/about/noms/commissioning](http://www.justice.gov.uk/about/noms/commissioning)

<sup>25</sup> [www.justice.gov.uk/about/noms/noms-directory-of-services-and-specifications](http://www.justice.gov.uk/about/noms/noms-directory-of-services-and-specifications)

<sup>26</sup> [www.justice.gov.uk/about/noms/noms-directory-of-services-and-specifications](http://www.justice.gov.uk/about/noms/noms-directory-of-services-and-specifications)

<sup>27</sup> [www.justice.gov.uk/about/noms/commissioning/evidence-based-commissioning](http://www.justice.gov.uk/about/noms/commissioning/evidence-based-commissioning)

<sup>28</sup> More information on the Transforming Rehabilitation programme can be found at [www.justice.gov.uk/transforming-rehabilitation](http://www.justice.gov.uk/transforming-rehabilitation)

1.30 For the purposes of this agreement, the Ministry of Justice/National Offender Management Service (including its public sector provider arm HMPS and contracted prison providers) are responsible for:

- Protecting the public and reducing reoffending
- Provision of safe, decent and secure custody
- Offender and population management including the transfer of prisoners between England and Wales
- Prison capacity management (including decisions to expand or re-role facilities)
- The safety and security of all staff (including healthcare staff) and prisoners including formally setting out through instruction<sup>29</sup> multi-agency safer custody arrangements (including Assessment, Care in Custody and Teamwork (ACCT)) and requirements of all persons operating within or visiting establishments<sup>30</sup>
- Clarifying the process for security clearance of healthcare staff, managing clearances and facilitating access to establishments
- Aligning and integrating the delivery of health and non-health related services within establishments and ‘through the gate’ including those which support rehabilitation and tackling the wider determinants of health
- Provision of appropriate facilities and services within the establishment for the purposes of enabling and hosting healthcare services including funding<sup>31</sup> and providing as appropriate:
  - new build capital developments and maintenance of building fabric
  - facilities management (including lighting, heating, utilities, pest control, fire and security, laundry and cleaning of all healthcare facilities to standards agreed with NHS)
  - ‘enabling’ services for healthcare<sup>32</sup> including security related services such as the supervision of medicine management queues, escorting prisoners to healthcare appointments, delivery of healthcare appointment slips to prisoners (where paper systems are still in use)
  - non-clinical constant supervision
  - non-clinical IT systems and infrastructure
  - supervision of escorts and bedwatches<sup>33</sup>
- Supporting wider health promotion through non-clinical services such as healthy diet and exercise<sup>34</sup> as part of Health Promotion Action Groups

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<sup>29</sup> These include Prison Service Orders (PSOs) ([www.justice.gov.uk/offenders/psos](http://www.justice.gov.uk/offenders/psos)) and Prison Service Instructions (PSIs) ([www.justice.gov.uk/offenders/psis](http://www.justice.gov.uk/offenders/psis))

<sup>30</sup> A NOMS review of all health related PSIs and PSOs is underway to ensure that these reflect the new commissioning environment and current best practice

<sup>31</sup> As part of the shared Development Priorities for 2013-14, reviews will be undertaken of responsibility for future funding of specific healthcare and healthcare enabling services and also current practice for agreeing and funding of constant supervision, see priorities 5 and 9

<sup>32</sup> This agreement is formally set out in the published NOMS Service Specification ‘Enablers of National Co-commissioned Services in prisons’ see [www.justice.gov.uk/about/noms/noms-directory-of-services-and-specifications](http://www.justice.gov.uk/about/noms/noms-directory-of-services-and-specifications)

<sup>33</sup> NOMS and its providers are responsible for supervision of escorts and bedwatches but responsibility for funding these rests with NHS England

<sup>34</sup> Where specialist diet or additional remedial physical exercise is specifically recommended on clinical grounds then this should be funded by the NHS

- Coordinating health protection/infection control advice to directly employed staff
- Complaints relating to the enabling of healthcare services
- Drug supply reduction strategy and activity
- Contract management of specific healthcare services in identified contracted prisons on behalf of, and with NHS England
- Personality Disorder services for high risk of harm male and high risk of reoffending female offenders which are jointly funded and commissioned by NOMS and NHS England
- Case management of prisoners transferred under the Mental Health Act for treatment as restricted patients in secure hospitals<sup>35</sup>

### ***Public Health England***

- 1.31 Public Health England (PHE) is an executive agency of the Department of Health. Created in April 2013 by the Health and Social Care Act 2012, PHE works with national and local government, industry and the NHS to protect and improve the nation's health and support healthier choices and tackles inequalities by focusing on removing barriers to good health. Public Health England brings together many of the functions of the former Health Protection Agency and National Treatment Agency.
- 1.32 Public Health England is structured into a national centre, four regions and 15 PHE Centres<sup>36</sup> which are co-terminus with NHS England's regions and Area Team boundaries. To specifically support the interface with both NHS England (in relation to both its specific functions under the Section 7a agreement and wider public health functions) and NOMS, a new Health and Justice national team has been created in the Health and Wellbeing Directorate, supported by Health & Justice Public Health Specialists (H&J PHS) in 10 of the PHE Centres. These in turn provide local partners and stakeholders with an interface with PHE. The Centres with these specialists map to those NHS Area Teams with Leads for Health & Justice commissioning although their remit extends to both custody and the community.
- 1.33 Support provided by the Health and Justice function in Public Health England includes disease surveillance (conducted by the Public Health in Prisons Team, formerly the HPA Prison Infection Prevention team), production of evidence-based guidelines, response to incidents and outbreaks (in partnership with PHE Centre Health Protection Teams, who will lead the response at a local level) and advice to policy makers, commissioners and service providers on addressing public health issues, including substance misuse services. Specifically this includes:
- Developing the evidence-base to support commissioning and service provision through primary research, audit, collection and analysis of data,

<sup>35</sup> [www.justice.gov.uk/offenders/types-of-offender/mentally-disordered-offenders](http://www.justice.gov.uk/offenders/types-of-offender/mentally-disordered-offenders)

<sup>36</sup> [www.gov.uk/government/publications/phe-centre-addresses-and-phone-numbers](http://www.gov.uk/government/publications/phe-centre-addresses-and-phone-numbers)

publication and dissemination of information, reports and research studies

- Identifying emerging health threats to prisoners and prison staff and providing advice on their management or mitigation
- Producing evidence-based guidelines and advice on all aspects of public health in prisons, including health protection, health promotion and healthcare public health
- Developing resources and tools to enable commissioners and service providers to assess the quality of services and how well they meet the needs of the people who use them (including supporting the development of new information systems and Prison Health Quality & Performance Indicators)
- Leading the development of disease surveillance and alerting systems to detect outbreaks of infectious diseases in prisons
- Leading the management and control of outbreaks of infectious diseases
- Supporting partner organisations in developing and delivering appropriate screening and immunisation programmes according to the needs of the population and consistent with PHE's role in the wider community
- Supporting emergency preparedness, resilience and response through development of training and exercise resources as well as providing 'structured debriefs' for incidents to capture learning for the wider system
- Supporting partners in conducting health needs assessments or other formal public health activities to assess the health and wellbeing of people in prisons
- Working with partners to ensure continuity of care across the prison estate and on release back to the community
- Supporting both NOMS and NHS England in the performance of their statutory functions as appropriate; interfacing with Public Health Wales as necessary

1.34 While Public Health England has a key role in providing expert public health advice to NOMS and NHS England which supports commissioning, it does not have any direct responsibility for commissioning or performance management of services, nationally or locally.

# 2. Joint Outcomes, Principles and Priorities

## Our Approach

2.1 Our approach to joint working is summarised as follows:

Support	Communicate	Review
<ul style="list-style-type: none"><li>• Mutually supportive, both deriving value from it;</li><li>• Develop trust, and an appropriate setting for challenge;</li><li>• Allow us to act independently, where necessary;</li><li>• Understanding and acknowledgment of respective roles and cultures;</li><li>• Influence each other's approaches, as appropriate;</li><li>• Reduce burden where possible.</li></ul>	<ul style="list-style-type: none"><li>• Empower and enable communication at all levels of the organisations;</li><li>• Open and transparent; sharing information in a timely manner, culture of no surprises;</li><li>• Aspire to collectively provide a coherent picture of quality of services to the public.</li></ul>	<ul style="list-style-type: none"><li>• Valued at highest level of organisation, visible leadership, clear accountability and coherent corporate approach;</li><li>• Captured in written documents, co-produced and available to all;</li><li>• Relationship should be kept under review, so we can constantly learn.</li></ul>

## Shared Outcomes

- 2.2 Prisoners should receive an equivalent health and wellbeing service to that available to the general population with access to services based on need.
- 2.3 Health and wellbeing services in prison should seek to improve health and wellbeing, tackle health inequalities and wider determinants of health and contribute to protecting the public and reducing re-offending.<sup>37</sup>
- 2.4 Prisoners should expect to experience a measurable improvement in their health and wellbeing, particularly in respect of recovery from substance misuse addiction, mental health problems, management of long-term conditions and access to public health interventions to prevent disease and illness.

<sup>37</sup> This is reflected in the Public Health Outcomes Framework (PHOF) for England see <http://healthandcare.dh.gov.uk/public-health-outcomes-framework>

- 2.5 Prisoners should expect continuity of care between custodial settings and between custody and community (including across the border with Wales).
- 2.6 Prisoners with identified social care needs should expect integrated health and social care which supports as much independence as possible within the constraints of custody.

## Joint Principles

- 2.7 NOMS and NHS England, supported by Public Health England, have a shared responsibility for the development of health and wellbeing services to prisoners on the basis of a shared local assessment of need, patient involvement and evidence-based practice.
- 2.8 NOMS, NHS England and our providers have a shared responsibility for continuous service improvement supported, where appropriate, by Public Health England.
- 2.9 NOMS and NHS England will jointly ensure best use of available resources in line with public value and pressures on public spending.
- 2.10 Decisions by either NOMS or NHS England which may have a detrimental impact on the services commissioned by the other party (for example changes to establishment function or capacity or changes to availability of services) will be discussed at the earliest point possible and whenever possible major changes will be co-designed.
- 2.11 Announcements and communications, in which the other parties to the agreement have an interest, will be consulted on in advance of issue, particularly where these have contractual, financial or reputational implications<sup>38</sup> as per the refreshed cross-organisational communications strategy.
- 2.12 NOMS, NHS England and Public Health England will jointly identify and agree the management of shared risks at relevant levels between the organisations.
- 2.13 NHS England and NOMS will jointly engage with each other's major procurement exercises by jointly developing and sharing health needs assessments and agreeing service outcomes in the spirit of co-commissioning.
- 2.14 NOMS and Public Health England will support NHS England activity to promote continuity of care on release from custody through alignment of 'through the gate' offender services and supervision and joining up of NHS England's direct commissioning functions for Health and Justice and Primary Care in the community.

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<sup>38</sup> One area where this is not possible relates to announcements over decisions to close prison establishments which must be announced by the Secretary of State for Justice in parliament before either staff or partners can be informed.

- 2.15 Services will continue to be assessed on basis of performance, public value and quality. In addition to performance managing services using contract measures, we will continue to use the Prison Health Performance and Quality Indicators (PHPQIs) during 2013-14 in order to be able to identify any impact of the changes to commissioning arrangements on service performance.
- 2.16 NOMS, NHS England and Public Health England will work together to manage infection control in prisons recognising respective responsibilities for advice, delivering interventions with prisoners and staff working in a prison setting.
- 2.17 NOMS, NHS England and Public Health England will support the development of partnerships at all levels within and between our respective organisations and commissioned providers of services. We will enable this development through transparency of all relevant financial, performance and strategic planning information and documentation. Establishments and healthcare providers, with input from respective commissioners and managers, will be expected to work together to agree how best to deliver the commitments in this national agreement, including appropriate governance and setting this out in a local agreement.
- 2.26 Services will continue to be subject to independent inspection and challenge by the Care Quality Commission (CQC), HM Inspectorate of Prisons (HMIP), Independent Monitoring Boards (IMBs) and the Prison and Probation Ombudsman (PPO) (see section 3). We will work together to facilitate and support complete transparency of the scrutiny of health services and collate and learn from best practice identified.
- 2.27 NOMS, NHS England and Public Health England will work together to ensure that prison health issues are appropriately reflected in the development and implementation of wider government policies and initiatives.

## **Joint Developmental Priorities for 2013-14**

- 2.28 Together we have identified 12 specific developmental priorities on which to work in 2013/14:
1. Developing core service specifications for prison health and wellbeing services.
  2. Developing Information Sharing Agreements and processes to drive transparency and continuous improvement of services.
  3. Improving continuity of care across transitions between healthcare services in places of detention and on release in the community including access to healthcare services in Approved Premises as well as cross-border movement between England and Wales.
  4. Reviewing the current commissioning arrangements for healthcare services in private finance initiative (PFI) prisons.

5. Reviewing and clarifying future responsibility for the funding of specific healthcare assets and enabling services.
6. Testing 'through the gate' substance misuse services as part of the Transforming Rehabilitation Strategy.
7. Reducing smoking amongst prisoners and supporting the development of smoke free prisons.
8. Reviewing the prescribing and abuse of prescription medications.
9. Reviewing multi-agency approaches to managing serious risk of harm.
10. Reviewing the current arrangements for the provision of integrated health and social care services for prisoners.
11. Improving the detection and management of tuberculosis among prisoners at or near reception.
12. Implementing an 'opt out' policy for testing for blood-borne viruses (BBVs) and developing care pathways for those found to be infected.

## **Priority 1 – Core Service Specifications**

- 2.29 We will work together to develop a set of core service specifications for healthcare services in prison to ensure that these reflect agreed needs and allow for the better alignment of clinical and non-clinical services in prisons.
- 2.30 NHS England and NOMS will work together with Public Health England to ensure that all commissioned services offer robust and appropriate screening and assessments for the delivery of services which work to redress health inequalities, recognise specific vulnerabilities and impairments and reflect the different operating environments within the prison estate, for example the needs of women prisoners or prisoners in the High Security estate.
- 2.31 We will work together to ensure that all commissioned healthcare services meet the diverse needs of the multi-ethnic and gender specific requirements of the prisoner population including addressing the health care needs of lesbian, gay, bisexual, and transgender (LGBT) offenders. We will also jointly work to the requirements of the Equality Act 2010 in recognising protected characteristics where they apply and ensure services can respond accordingly to the needs of their patient cohort.

### *Commitment*

- By April 2014 we will have a set of core service specifications to support commissioning by Area Teams and inform NOMS co-commissioning activity

- Service specifications will specifically aim to tackle health inequalities and promote equalities by reflecting the specific needs of offenders with protected characteristics under the Equalities Act

## Priority 2 – Information and Intelligence Sharing

2.32 We will work together proactively to share information and intelligence both for case management and public protection and about the quality of care in order to drive improvement in services and outcomes. We will work together to develop more shared measures of performance and quality.

2.33 We will also work together to understand how to make long-term improvements to our information sharing both corporately and at establishment level and strive for continuous improvement and increased effectiveness over time in relation to supporting joint patient care, risk assessment and service planning.

### *Commitment*

- By April 2014, we will have agreed a core minimum set of information that we will exchange and the mechanism by which we will share it
- We will work together to develop and test a new performance model for 2014-15 to replace the Prison Health Performance and Quality Indicators (PHPQIs) which more fully reflects the range of services being commissioned and builds on other existing frameworks such as the Public Health Outcomes Framework (PHOF)

## Priority 3 – Improving Continuity of Care

2.34 NHS England and NOMS will work together with partner agencies in communities in England to ensure continuity of care for people between establishments and between custody and the community in respect of health need diagnosis and treatment. We will also work with NHS Wales and Public Health Wales to strengthen arrangements for the transition of people between services across the England and Wales border.

2.35 NHS England will seek to improve continuity of care by aligning its direct commissioning responsibilities for health and justice and for primary care for the general population including offenders in the community. For example NHS England will work alongside NOMS and relevant Clinical Commissioning Groups to improve the access to and quality of healthcare for residents in Approved Premises by supporting the continuity of healthcare planning ‘through the gate’.

### *Commitment*

- By April 2014 NOMS and NHS England will have confidence in the standards of the continuity of care between custodial settings and between custody and the community

- By April 2014, all prisoners will have their NHS number as a unique identifier on SystemOne to allow assessment of use of NHS services in the community on release
- By April 2014 NOMS, NHS England and NHS Wales will have improved protocols for managing people who need to transition between services in both England and Wales
- By April 2014 NOMS and NHS England will work together to assess improvements in access to, and quality of care provided to residents of Approved Premises in respect of consistency of provision and seamless healthcare planning and review the current commissioning model

#### **Priority 4 – Reviewing the Commissioning Arrangements for Healthcare Services in PFI Prisons**

2.36 NHS England and NOMS will work together to undertake a review of healthcare services currently delivered in private finance initiative (PFI) prisons in line with the new responsibilities of NHS England under the Health and Social Care Act. We will work at an Area Team level collectively with providers to ensure healthcare provision is delivered to appropriate professional standards. We will also work together nationally and locally to review and negotiate the most appropriate future commissioning pathways.

##### *Commitment*

- By April 2014 NHS England and NOMS will have shared confidence in the standards of healthcare delivery within PFI prisons

#### **Priority 5 – Review and clarify future responsibility for funding specific healthcare assets and prison staff**

2.37 Responsibility for funding of healthcare assets was set out in the previous National Partnership Agreement in 2007. However, the introduction of new services and local partnership discussions has resulted in significant variances across England. NOMS and NHS England will work together to review and clarify responsibility for future funding of specific healthcare assets. In particular, we will baseline fixed minor capital assets in public sector prisons which have been purchased by both NOMS and PCTs. We will also review and clarify processes for agreeing funding of non-standard equipment and facilities requests. We will clarify responsibility for future acquisition and maintenance and plan for transition to new arrangements.

2.38 The process of transferring successive responsibility for the delivery of healthcare, including substance misuse services, from NOMS to the NHS between 2002 and 2012 has resulted in a range of local contractual and voluntary arrangements for funding prison staff (both HMPS and contracted provider) who enable healthcare services. The introduction of new services such as IDTS has further added to local variance in staff funding arrangements. We jointly will review these arrangements and set out future funding responsibility including transition where these might differ from current practice.

### *Commitment*

- By April 2014 NOMS and NHS England will have reviewed and implemented the forward model for responsibility for the acquisition and maintenance of healthcare assets and NHS funding of prison staff

## **Priority 6 – Test ‘through the gate’ substance misuse services as part of the Transforming Rehabilitation Strategy**

2.39 NOMS, NHS England and Public Health England will work together with local partners in the North West of England to build on the learning from the Drug Recovery Wing pilots and test ‘through the gate’ substance misuse treatment services for offenders in ‘resettlement prisons’ in two Contract Package Areas and use the learning from this approach to inform wider roll-out in line with the projected timescales of *Transforming Rehabilitation*.

2.40 NHS England and NOMS will continue to work together to ensure that the retendering of substance misuse services across the rest of the estate integrate clinical and non-clinical services to support sustained recovery from addiction in prison and on release.

### *Commitment*

- Substance misuse services retendered during 2013-14 will integrate clinical and non-clinical services with wider services in the prison to support sustained recovery from addiction in custody and on release
- By April 2014 we will have developed and commenced testing a comprehensive ‘end-to-end’ approach to tackling addiction from custody into the community in a number of resettlement prisons

## **Priority 7– Reducing Smoking and Supporting Smoke Free Prisons**

2.41 NHS England, Public Health England and NOMS will work together to promote the public health priority of supporting prisoner smoking cessation and develop a strategy for creating smoke free prisons.

### *Commitment*

- By April 2014 we will have developed a strategy for supporting the creation of smoke free prisons in England

## **Priority 8– Prescription medications prescribing and abuse**

2.42 NOMS and NHS England will review the level and choice of prescription medications within prisons as against the population in general. We will work together with professional bodies to promote changes in prescribing practice and tackle abuse of medications.

### *Commitment*

- By April 2014 NOMS and NHS England will have improved confidence that use of prescription medicines within prisons is concomitant to real need and levels of misuse of prescribed medicines has been reduced, supported through the development of a national prison formulary

## **Priority 9 – Reviewing multi-agency approaches to managing serious risk of harm.**

2.43 NOMS and NHS England will review current policy and practice around managing serious risk of harm. Specifically we will review constant supervision, health related prison-to-prison and prison to community transfers (including the sharing of information) and the use of inpatient facilities. Guidance in these areas will be reissued to improve consistency of best practice.

### *Commitment*

- By April 2014 NOMS and NHS England will improve the consistent application of best practice in use of constant supervision, health related prison-to-prison transfers and the use of inpatient facilities as part of a multi-agency approach to managing serious risk of harm including ensuring the best use of, and clarifying responsibility for, resourcing

## **Priority 10 - Integrating Health and Social Care in Prisons**

2.44 While the responsibility for Social Care rests with Local Authorities, NHS England has an important role in supporting integrated health and care services for those in prison working together with NOMS.

2.45 The Care Bill introduced as part of the Queen Speech on 8 May 2013 proposes to clarify the responsibility for social care for prisoners and offenders in Approved Premises. NOMS and NHS England will work together to review current social care need and practice in prisons and Approved Premises to ensure that health and care are integrated.

### *Commitment*

- By April 2014 NOMS and NHS England, working with the Association of Directors of Adult Social Services (ADASS) will have carried out a review of the social care provision for people in custody and Approved Premises with a view to ensuring they experience integrated health and care which allows as much independence as possible within the constraints of custody

## **Priority 11 - Improving the detection and management of TB among prisoners at or near reception.**

2.46 Tuberculosis is recognised as a growing public health threat within prisons. The number of cases has doubled in the past five years (from 45 in 2007 to 91 in

### *Commitment*

- By April 2014, PHE, NHS England and NOMS will ensure that all fixed digital x-ray machines are fully operational and being used as part of an active care pathway in those prisons where they are currently installed. PHE will provide data on x-ray activity and the detection of cases of pulmonary TB

## **Priority 12 - Delivery of an 'opt out' BBV testing programme in prisons:**

2.47 The burden of infection with blood-borne viruses (BBVs), Hepatitis B, Hepatitis C and HIV, is high among prisoners in England. PHE has data from several different sources which show a much higher prevalence of infection among prisoners than among peers in the community (Prison Health Performance Quality Indicators (PHPQIs), PHE Sentinel Surveillance of BBV testing, Genitourinary Medicine Clinic Activity Dataset (GUMCAD), Survey of Prevalent HIV Infections Diagnosed (SOPHID), and Public Health in Prisons (PHiPs) Team reports). However, all these data sources also show significant under-testing of prisoners. This is explained by several factors but one is how prisoners are offered the opportunity to test. PHE is advocating the development of an 'opt out' testing programme in prisons, whereby prisoners are offered the chance to test for infection near reception and at several time points thereafter by appropriately trained staff in a range of different healthcare services in the prison. This model has worked in genito-urinary medicine services in the community where there has been a significant rise in both the offer and uptake of testing for HIV by development of an 'opt out' method.

### *Commitment*

- NHS England, NOMS and PHE will work together to design and deliver an appropriate 'opt out' model of testing for BBVs by April 2014, in collaboration with other non-statutory partners (e.g. The National AIDS Trust and the Hepatitis C Trust)

## 3. Governance

- 3.1 This agreement provides the basis of shared understanding both for the way in which NHS England, Public Health England and NOMS will work together but also for the work which we carry out unilaterally on a day-to-day basis in support of the commissioning of health services in prison. It is essential therefore that it remains a living document and has appropriate governance to support this at different levels within our commissioning and delivery systems.
- 3.2 **Annex C** sets out the high level governance framework for joint working between NOMS, NHS England and Public Health England. This provides a model framework recognising that regional and local arrangements should be agreed by all three organisations at the appropriate level within each organisation.

### National Governance

- 3.3 NHS England, Public Health England and NOMS will create a new Prison Healthcare Board ((England))<sup>39</sup> with responsibility for the oversight and ongoing management of this agreement including its priority delivery commitments. This will also provide a mechanism both for dispute resolution (see below) and for oversight of emerging issues of national strategic importance including the monitoring of and response to infection control outbreaks.
- 3.4 We will also establish and maintain a joint sub-board of the new Prison Healthcare Board (England) for the co-commissioning and management of healthcare in contracted (private) prisons and maintain this sub-board for as long as NOMS continues to contract manage primary health services in contracted prisons on behalf of NHS England.
- 3.5 The Prison Healthcare Board (England) will feed up into both the NHS England Health and Justice Strategic Partnership Delivery Group (and through it to the NHS England Direct Commissioning governance structures) and the NOMS Commissioning and Commercial Sub-Committee (and through it the NOMS Executive Management Committee) to ensure that work to commission services in prisons is aligned with corporate governance and joined up with oversight of work in other places of detention.

### Regional and Local Governance

- 3.6 Prisons healthcare and substance misuse service providers should continue to come together in delivery boards whose membership and operation should be determined locally. This should be underpinned by a local delivery agreement

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<sup>39</sup> Separate governance arrangements are being developed with the Welsh Government to support joint working around offender health in Wales

which sets out how the National Agreement is being taken forward at a local level to support operational delivery. A standardised template for local agreements will be developed to support this activity. Delivery boards should focus on all of the interfaces between healthcare (including substance misuse) and wider establishment services, including the effectiveness of enabling services and any issues which may impact on improving health and justice outcomes. In particular, local arrangements will need to consider the importance of including new Community Rehabilitation Companies (CRCs) in local arrangements from October 2014, recognising the key role they will play in delivering rehabilitation services to the majority of prisoners both in custody and 'through the gate' back into the community. In addition, consideration should be given to how partnerships will interface with the National Probation Service which will be responsible for providing advice to court, assessing the risk an offender poses to the public and directly managing the highest risk offenders.

- 3.7 While prison Governors and Directors will need to ensure that they are confident that appropriate clinical governance arrangements are in place for the services operating in their establishments, they are not responsible for clinical governance or the management of delivery by healthcare (including substance misuse) providers. Nor are they responsible for the contract management of providers which is the responsibility of NHS England. Where NHS England lead commissioners have devolved responsibility for commissioning of substance misuse services to Local Authorities then they remain accountable for those services.
- 3.8 In the spirit of partnership working, assurances for delivery between prisons (from October 2014 CRCs) and healthcare providers (including substance misuse) should be agreed as part of local partnership agreements and should not require any additional SLAs, inclusion as a signatory in healthcare contracts or 'license documents', and never without the agreement of both NOMS and NHS commissioners. Any concerns impacting on delivery should be raised using the dispute resolution processes set out in the section below.
- 3.9 In addition to Local Delivery Boards, NHS England and NOMS may wish to develop wider strategic partnership arrangements to bring together commissioners (including where appropriate Local Authority Commissioners for substance misuse services) and providers together with other stakeholders such as Health and Justice leads from Public Health England hubs. This might be done on a geographical or thematic basis, for example bringing together female prisons. Strategic partnership arrangements should align with the national governance arrangements between NOMS and NHS England outlined above. Consideration should also be given to how to engage with the Youth Justice Board (YJB) and Home Office where prisons are also delivering services under contract to either as well as engagement of new providers of rehabilitation and offender management services as a result of the Transforming Rehabilitation reforms.
- 3.10 Strategic and clustering governance arrangements within regions will commit resources of NOMS, NHS England (where relevant Local Authority commissioners of prison substance misuse services) and Public Health

<sup>40</sup> with responsibility for establishments which are proposed to be included in any strategic arrangements together with the Health, Wellbeing and Substance Misuse Co-commissioning lead for the region in question.

## Complaints and Dispute Resolution

### *Making a Complaint*

- 3.11 Concerns originating from prisoners, their families or carers for healthcare (including substance misuse) services received in prisons in England<sup>41</sup> should be dealt with as a complaint.
- 3.12 Complaints which relate to both clinical and non-clinical healthcare matters should be raised via the standard NHS England complaints procedure, details of which are available at [www.england.nhs.uk/contact-us/complaint](http://www.england.nhs.uk/contact-us/complaint). This includes information about how to appeal via the independent Parliamentary and Health Service Ombudsman (PHSO). Complaints which relate to NHS funded care between 2003 and 2013 and pre-date NHS England should also use this procedure. This procedure does not include those functions which NHS England is not responsible for commissioning, specifically 111 services, out of hours and ambulance services.<sup>42</sup> Neither does this include social care support which should be raised with the local authority responsible for the assessment and commissioning of care support.
- 3.13 Where a complaint relates to a substance misuse service which has been commissioned by a Local Authority on behalf of the NHS England Area Team Health and Justice Lead commissioner, the commissioning Local Authority's complaints procedure should be used. The Lead Health and Justice Area Team commissioner will be able to advise on the relevant procedure.
- 3.14 Where the complaint relates to health care services in a contracted prison where NOMS contract manages these services on behalf of NHS England then a complaints procedure which includes NHS England has been agreed and is available through the prison controller.

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<sup>40</sup> Each NOMS prison region has a Deputy Director of Custody (DDC) with responsibility for the line management of public sector prison Governors. In addition, High Security Prisons are managed by a separate Deputy Director. Contracts for Contracted prisons are overseen by a different Deputy Director outside of HM Prison Service. A number of NHS Area Team boundaries do not align with NOMS prison regional boundaries in which case partnership arrangements may require the consent and engagement of more than one DDC with responsibility for Public Sector Prisons. From October 2014 consideration will also need to be given about the engagement of Community Rehabilitation Companies and the National Probation Service through the NOMS commissioning line.

<sup>41</sup> This includes prisoners from Wales who serve all or part of the sentences in an English prison but excludes prisoners from either England or Wales who wish to complain about services while serving all or part their sentence in a prison in Wales. More information about how to complain to the NHS in Wales is available at [www.wales.nhs.uk/ourservices/publicaccountability/puttingthingsright](http://www.wales.nhs.uk/ourservices/publicaccountability/puttingthingsright)

<sup>42</sup> Complaints about out of hours or 111 services should be raised with the Clinical Commissioning Group (CCG) with responsibility for commissioning the service accessed by the prison healthcare team and in the case of ambulance care with the relevant ambulance trust. More information including how to find the relevant CCG is available at [www.nhs.uk/choiceinthenhs/rightsandpledges/complaints/pages/nhscomplaints.aspx](http://www.nhs.uk/choiceinthenhs/rightsandpledges/complaints/pages/nhscomplaints.aspx)

- 3.15 Prisoner complaints which do not directly relate to clinical or non-clinical healthcare services for which the NHS is responsible should be raised through the normal NOMS complaints procedure.<sup>43</sup> This includes information about the appeals process for complaints including via the Prison and Probation ombudsman. The NOMS complaints procedure should also be used for healthcare complaints which relate to incidents prior to 2003 and the transfer of responsibility for prison healthcare to the NHS.
- 3.16 Where a complaint involves both healthcare and non-healthcare elements the healthcare elements of the complaint should be raised through the NHS England complaints procedure, which recognises that the complaint should be registered with the providers of the service in the first instance, and the non-healthcare through the NOMS procedure. The two areas of investigation will run parallel to one another managed through the relevant organisational complaints procedure and the findings reported back to the complainant as required by each procedure. The two investigating organisations will only share their findings during the investigation where one area of delivery impacts on the other and would have had a material effect on the complaint outcome.

### *Dispute Resolution*

- 3.17 Concerns which relate to operational or resourcing disagreements between commissioners or providers of healthcare services or prison services in NHS England (including Local Authorities where they have commissioned substance misuse services on behalf of NHS England) and NOMS, should be dealt with as a dispute if they cannot be resolved locally. Dispute processes should not be used to deal with individual concerns by prisoners or their representatives which should be dealt with under complaints procedures (see above).
- 3.18 Where a dispute emerges between providers of healthcare services (including substance misuse services commissioned on behalf of NHS England) in prisons and the management of the wider prison establishment, these should always be raised in the first instance and at the earliest opportunity directly with the other party. Issues should ideally be put in writing and discussed as part of Local Delivery Board arrangements and any resolutions similarly recorded in writing.
- 3.19 Where a dispute between a provider of healthcare (including substance misuse services commissioned on behalf of NHS England) in prisons and an establishment cannot be resolved satisfactorily at the Local Delivery Board level, this should be raised in writing with the NHS England AT Lead Health and Justice Commissioner (or Local Authority where substance misuse services have been commissioned on behalf of NHS England) and the Deputy Director of Custody (DDC) with responsibility for the establishment. Resolutions should be recorded in writing. Both the NHS England lead Commissioner (or Local Authority) and DDC may seek appropriate advice from within their wider organisations as appropriate, for example in the case of DDCs, involvement of

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<sup>43</sup> For information about NOMS complaints procedures for individual prisoners see [www.justice.gov.uk/downloads/offenders/psipso/psso/PSO\\_2510\\_prisoners\\_requests\\_and\\_complaints\\_procedures.doc](http://www.justice.gov.uk/downloads/offenders/psipso/psso/PSO_2510_prisoners_requests_and_complaints_procedures.doc).

3.20 In the unlikely event that disputes cannot be resolved at this level, then they should be formally raised in writing by both parties with the National Prison Health Co-commissioning and Partnership Board for England. The Board's decisions will be recorded in writing and will be considered final.

## Independent Scrutiny and Inspection

3.21 Healthcare services delivered in prison are subject to a range of independent scrutiny and inspection, the high level function and responsibilities for which are set out below.

3.22 **The Care Quality Commission (CQC)** – the Care Quality Commission is the independent regulator of all health and social care services in England. Their role is to ensure that services meet national standards of safety and care. This remit includes the inspection of prison healthcare services<sup>44</sup> which are required to register with the commission.<sup>45</sup> CQC has a memorandum of understanding with HM Inspectorate of Prisons to ensure that checks are not duplicated.<sup>46</sup> This includes a mapping of all of CQC's regulations to HMIP's expectations and inspection methodology.<sup>47</sup> The role and independence of CQC remains unchanged by this agreement.

3.23 **HM Inspectorate of Prisons (HMIP)** – HMIP is an independent inspectorate, which reports on conditions for and treatment of those in prison, young offender institutions and immigration removal centres.<sup>48</sup> HM Chief Inspector of Prisons is appointed by the Home Secretary, from outside the prison service, for a term of five years. The Chief Inspector reports directly to the Home Secretary on the treatment and conditions for prisoners in England and Wales and other matters as directed by the Secretary of State for Justice. HMIP has a memorandum of understanding with the Care Quality Commission to ensure alignment of inspection and regulation expectations.<sup>49</sup> Where HMIP have inspected healthcare and found satisfactory performance, CQC will not normally undertake further checks. The independence and role of the inspectorate remains unchanged by this agreement.

3.24 **Prison and Probation Ombudsman (PPO)** – The PPO is appointed by the Secretary of State for Justice and investigates complaints from prisoners and those subject to probation supervision.<sup>50</sup> The PPO is also responsible for investigating all deaths in prison custody, producing Fatal Incident Reports. The PPO publishes Learning Lessons Bulletins which draw together lessons for improving practice based on investigations. The Ombudsman is completely

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<sup>44</sup> For more information see [www.cqc.org.uk/organisations-we-regulate/special-reviews-and-inspection-programmes/offender-care](http://www.cqc.org.uk/organisations-we-regulate/special-reviews-and-inspection-programmes/offender-care)

<sup>45</sup> For information about which prison health providers are required to register with CQC see

[www.cqc.org.uk/sites/default/files/media/documents/prisons\\_and\\_ircs\\_-\\_who\\_has\\_to\\_register\\_201008092942.doc](http://www.cqc.org.uk/sites/default/files/media/documents/prisons_and_ircs_-_who_has_to_register_201008092942.doc)

<sup>46</sup> [www.cqc.org.uk/sites/default/files/media/documents/20130118\\_poc3095\\_nick\\_hardwick\\_mou\\_hmip.pdf](http://www.cqc.org.uk/sites/default/files/media/documents/20130118_poc3095_nick_hardwick_mou_hmip.pdf)

<sup>47</sup> [www.cqc.org.uk/sites/default/files/media/documents/mappinghmipexpectationscqcregulations\\_0.doc](http://www.cqc.org.uk/sites/default/files/media/documents/mappinghmipexpectationscqcregulations_0.doc)

<sup>48</sup> [www.justice.gov.uk/about/hmi-prisons](http://www.justice.gov.uk/about/hmi-prisons)

<sup>49</sup> [www.cqc.org.uk/sites/default/files/media/documents/20130118\\_poc3095\\_nick\\_hardwick\\_mou\\_hmip.pdf](http://www.cqc.org.uk/sites/default/files/media/documents/20130118_poc3095_nick_hardwick_mou_hmip.pdf)

<sup>50</sup> [www.ppo.gov.uk](http://www.ppo.gov.uk)

independent of both NOMS and HMPS. The role and independence of the PPO remains unchanged by this agreement.

- 3.25 **Independent Monitoring Boards (IMB)** - inside every prison (and immigration removal centre) there is an IMB. IMB members are independent and unpaid, appointed by the Ministry of Justice to monitor day-to-day life in their local prison or immigration removal centre and ensure that proper standards of care and decency are maintained.<sup>51</sup> This remit includes healthcare provision. The role and accountability of IMBs remain unchanged by this agreement.
- 3.26 **HealthWatch** – HealthWatch is a new independent consumer champion for health and social care across England from 1<sup>st</sup> April 2013.<sup>52</sup> The network is made up of the nationally-focused HealthWatch England leading 152 community-focused local HealthWatch. Together they form the HealthWatch network, working closely to ensure consumers' views are represented both locally and nationally. Contact details for local HealthWatch are available on the HealthWatch website.

## Communications Strategy

- 3.27 NHS England, PHE and NOMS will develop and refresh a joint communications strategy to support and underpin the shared principles and priorities in this agreement.

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<sup>51</sup> [www.justice.gov.uk/publications/corporate-reports/imb](http://www.justice.gov.uk/publications/corporate-reports/imb)

<sup>52</sup> [www.healthwatch.co.uk](http://www.healthwatch.co.uk)

## 4. Contacts

- 4.11 All queries or questions relating to the operation of this agreement should be directed in the first instance to:

### **National Offender Management Service**

Head of Health, Wellbeing and Substance Misuse Co-commissioning  
Commissioning Group  
Directorate of Commissioning and Commercial  
National Offender Management Service  
3rd Floor, Clive House  
70 Petty France  
London  
SW1H 9EX

[Health.co-commissioning@noms.gsi.gov.uk](mailto:Health.co-commissioning@noms.gsi.gov.uk)

### **NHS England**

Head of Public, Armed Forces and Health and Justice Commissioning  
Health and Justice,  
4N04, Operations Directorate  
Quarry House,  
Quarry Hill,  
Leeds,  
LS2 7UE

[england.healthandjustice@nhs.net](mailto:england.healthandjustice@nhs.net)

### **Public Health England**

Director for Health and Justice,  
Public Health England,  
Wellington House,  
Waterloo Road,  
London  
SE1 8UG

[Health&Justice@phe.gov.uk](mailto:Health&Justice@phe.gov.uk)

# Annex A

## Prison Health Commissioning in England – A Brief History

- 1.1 Prior to April 2003, HM Prison Service was responsible for directly managing and delivering its own primary healthcare services in prisons in both England and Wales through the Directorate of Prison Healthcare. However in 1996 an HMCIP discussion paper *Patient or Prisoner*<sup>53</sup> identified significant weaknesses with these arrangements and recommended the NHS should take responsibility for prison healthcare. The following year the standing Health Advisory Committee to the Prison Service was similarly critical of The Provision of Mental Health Care in Prisons.<sup>54</sup> In response a joint working group comprising of officials from HMPS and the NHS Executive was launched. Reporting in March 1999 'The Future Organisation of Prison Healthcare' report<sup>55</sup> recommended that a formal partnership be created between the NHS and the Prison Service based on the previously established principle of equivalence, namely

*To give prisoners access to the same quality and range of health care services as the general public receives from the National Health Service.*<sup>56</sup>

This statement reflects the provision set out in Principle 9 of the UN (1990) document 'Basic Principles for the Treatment of Prisoners' which states:

*Prisoners shall have access to the health services available in the country without discrimination on the grounds of their legal situation*

- 1.2. In 2001 the Department of Health published 'Changing the Outlook' which included the proposal to introduce mental health in-reach services into prisons and in September of the following year, Ministers announced that Department of Health would have the responsibility for the funding of primary care services in Public Sector Prisons in England from April 2003.
- 1.3. The principles which would underpin how the two Departments would work together was set out in the document *National Partnership Agreement on the Transfer of Responsibility for Prison Health from the Home Office to the Department of Health* published in April 2003. The agreement superseded a number of then Prison Service Orders (PSOs) and Instructions and became the basis for a number of subsequent Prison Service Instructions (PSIs).
- 1.4. Commissioning responsibility for prison health was subsequently devolved by the Department of Health to Primary Care Trusts (PCTs) between 2004 and 2006. In response each establishment created a Prison Partnership Board which brought together the management of the prison with PCT commissioners

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<sup>53</sup> *Patient or Prisoner?: a new strategy for health care in prisons*, HM Inspectorate of Prisons, London; Home Office 1996

<sup>54</sup> *The provision of mental health care in Prisons*, Health Advisory Committee for the Prison Service, London Prison Service 1997

<sup>55</sup> *The Future Organisation of Prison Health Care: Report by the Joint Prison Service and National Health Service Executive Working Group*, HM Prison Service and NHS Executive, London 1999

<sup>56</sup> *Health care Standards for Prisoners in England and Wales*, HM Prison Service; London 1994

to discuss priorities, performance and delivery issues. Local partnership agreements were developed based on the national agreement setting out how individual establishments would work with PCT commissioners.

- 1.5. Responsibility for provision of primary care in contracted (private) prisons however did not transfer to the Department of Health and the primary healthcare services in these prisons continued to be provided under contract to the Ministry of Justice.
- 1.6. The transfer of health commissioning responsibility to PCTs marked the start of a series of further reforms and transformation of healthcare services in prisons. In July 2006 the Department of Health began the roll-out of the Integrated Drug Treatment System (IDTS) and in April 2007 the Prison Service announced that it would transfer the responsibility to the Department of Health and PCTs for commissioning Escort and Bedwatch services which escort and supervise offenders taken out of prison to receive hospital care. In recognition of these further changes a second revised partnership agreement was published by the Department of Health in January 2007 entitled *National Partnership Agreement between DH and Her Majesties' Prison Service for the Accountability and Commissioning of Health Services for Prisoners*.<sup>57</sup>
- 1.9. Shortly after the revised National Partnership Agreement was published (April 2007) responsibility for Prison and Probation Services transferred from the Home Office to the newly created Ministry of Justice (MoJ) and one year later, in April 2008, the former National Offender Management Service (created by the Home Office in 2004) was replaced by a new National Offender Management Service (NOMS) Agency which brought together the headquarters functions of the Public Sector Prison Service (HMPS) and Probation, and became responsible for both commissioning and delivering adult offender services in both custody and the Community in England and Wales. The Department of Health's Offender Health Directorate became a shared business function, with representation on the NOMS Agency executive management committee.
- 1.10. Between February and May 2011, the Department of Health and Ministry of Justice consulted on an implementation plan for a new approach to working with offenders who have severe personality disorders (PD).<sup>58</sup> In October 2011 the Ministry of Justice and the Department of Health announced the Coalition Government's intention to take forward a co-commissioned programme to improve the management and psychological health of offenders with severe personality disorders who also present a high risk of serious harm to others. By reshaping the existing Dangerous and Severe Personality Disorder Programme (DSPD) which had operated in three prisons and secure hospitals and the community since 2000, resources would be re-invested on delivering new PD services mainly in prisons and probation.

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<sup>57</sup> [http://webarchive.nationalarchives.gov.uk/+www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH\\_064096](http://webarchive.nationalarchives.gov.uk/+www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_064096)

<sup>58</sup> For more information on severe personality disorders see [www.personalitydisorder.org.uk](http://www.personalitydisorder.org.uk)

- 1.11 Further transfers of responsibility between NOMS Agency and the Department of Health continued, the most significant being the transfer of responsibility for commissioning non-clinical substance misuse services (including CARAT services and some accredited Offending Behaviour Programmes) in prisons in England in April 2011. With this transfer, almost all clinical and non-clinical prison healthcare services in England became an NHS responsibility, with the exception of services which continued to be contracted by NOMS in some private prisons.

# Annex B

## Examples of NOMS Service Specifications, Prison Service Orders and Instructions relevant to Healthcare

NOMS is responsible for publishing a range of specifications and instructions which inform the services it commissions and which must be followed by those working in prisons. Where these relate to interfaces with healthcare then the Department of Health/NHS England will be consulted in agreeing the instructions or specification.

Instructions and specifications are published in full on the NOMS website. Examples of some of the mandatory minimum service specifications and orders (PSOs) and instructions (PSIs) which impact on or are impacted on by healthcare services in prisons are listed below.

Service Type	<b>NOMS service specifications</b> <a href="http://www.justice.gov.uk/about/noms/noms-directory-of-services-and-specifications">www.justice.gov.uk/about/noms/noms-directory-of-services-and-specifications</a>
Secure and Decent Custody	Catering
	Early days and discharge – discharge
	Early days and discharge – induction to custody
	Early days and discharge – first night in custody
	Early days and discharge – reception in
	Enablers of national co-commissioned services in prisons
	Mandatory drug testing
	Mother and baby units
	Nights
	Prisoner discipline and segregation - prisoner discipline procedures
	Prisoner discipline and segregation - segregation of prisoners
	Processing and resolution of prisoner complaints
	Provision of secure operating environment (POSOE) – communication and control room
	Provision of secure operating environment – internal prisoner movements
	Provision of secure operating environment – gate services
	Residential services
	Specialist Units (HSE)
	Visits – conduct visits

	Visits – services for visitors
	Visits – visits booking
Interventions	Rehabilitation Services in Custody

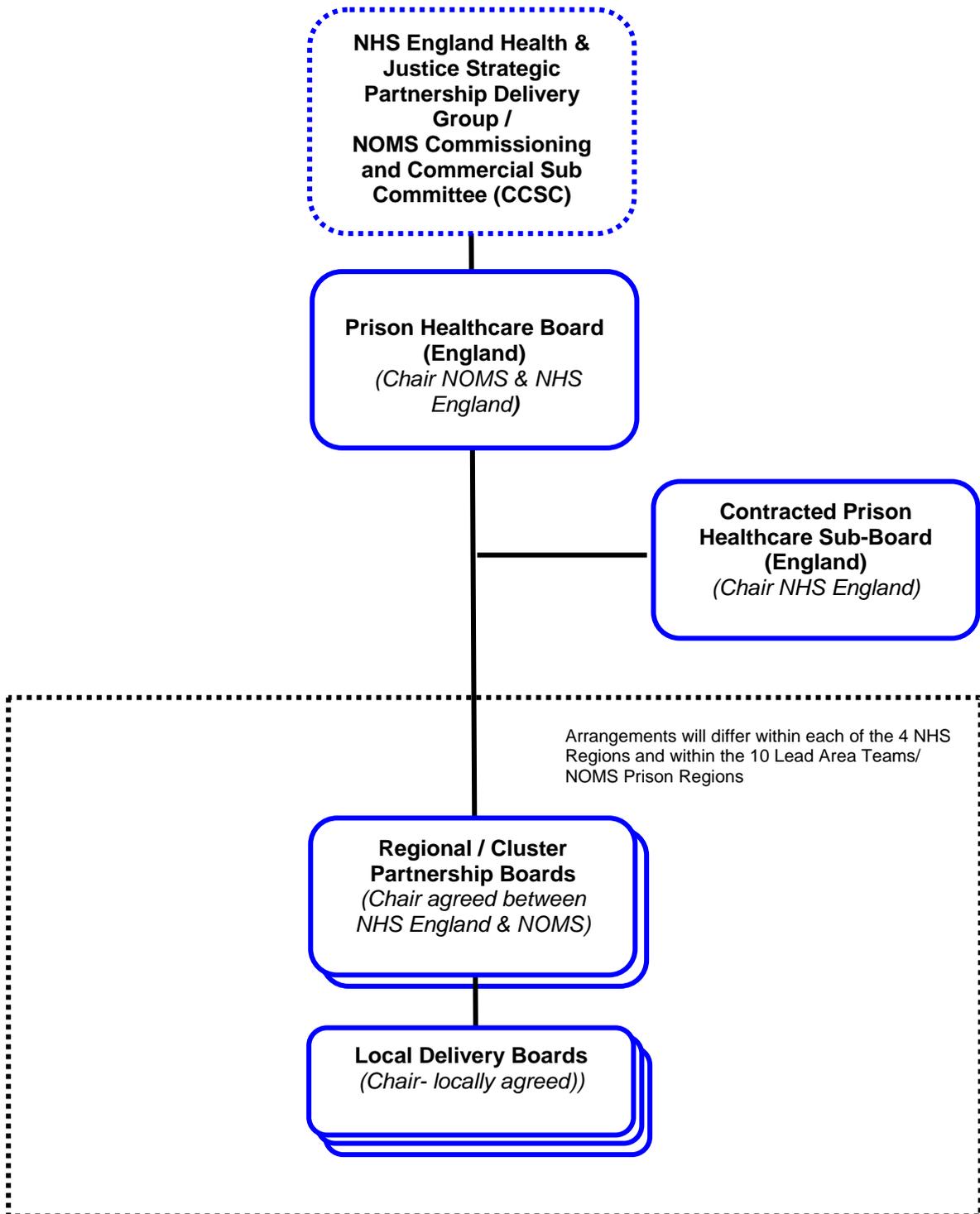
<b>PSO NUMBER</b>	<b>Prison Service Orders (PSOs)</b> ( <a href="http://www.justice.gov.uk/offenders/psos">http://www.justice.gov.uk/offenders/psos</a> )
0550	Prisoner induction
1025	Communicating information about risks on escort or transfer – the prisoner escort record
1600	Use of force
1700	Segregation
2000	The Prison Discipline Manual: adjudications
2300	Resettlement
2400	Democratic therapeutic communities
3050	Continuity of healthcare for prisoners
3100	Clinical governance – quality in prison healthcare
3200	Health promotion
3550	Clinical services for substance misusers
3601	Mandatory drug testing
3625	Vetting & testing of specialist external drug workers
3630	Counselling, assessment, referral, advice and throughcare services
3842	Radiation safety – dental and medical x-ray equipment
4455	Requests from prisoners to change their name
4800	Women prisoners

<b>PSI NO.</b>	<b>Prison Service Instructions (PSIs)</b> ( <a href="http://www.justice.gov.uk/offenders/psis">http://www.justice.gov.uk/offenders/psis</a> )
46/2005	Prison drug treatment and self harm
31/2009	Compact based drug testing
42/2010	Health and safety policy statement
44/2010	Catering – meals for prisoners
45/2010	Integrated drug treatment system
07/2011	The care and management of transsexual prisoners
16/2011	Providing visits and services to visitors
24/2011	National Security Framework Night function: management and security of nights
47/2011	Prisoner Discipline Procedures
52/2011	Immigration, Repatriation and Removal Services
54/2011	Mother & Baby Units
58/2011	Physical Education (PE) for Prisoners

<b>PSI NO.</b>	<b>Prison Service Instructions (PSIs)</b> ( <a href="http://www.justice.gov.uk/offenders/psis">http://www.justice.gov.uk/offenders/psis</a> )
<b>62/2011</b>	Procedure for the Transfer From Custody of Children and Young People to and from Hospital Under the Mental Health Act 1983 in England
<b>64/2011</b>	Management of Prisoners at Risk of Harm to Self, to Others and From Others (Safer Custody)
<b>75/2011</b>	Residential Services
<b>08/2012</b>	Care and Management of Young People
<b>31/2012</b>	National Security Framework Vetting Function - Security Vetting: additional risk assessment criteria following disclosed criminal convictions ex-offenders

# Annex C

## Prison Healthcare Governance Framework (England)



Governance Body	Chair and Example Membership	Purpose
<p style="text-align: center;"><b>Prison Health Board (England)</b> <i>(Chair NHS England/NOMS)</i></p>	<p>Co-Chaired by NHS England &amp; NOMS</p> <ul style="list-style-type: none"> <li>• NHS England National Health and Justice</li> <li>• Public Health England Health and Justice</li> <li>• NOMS Commissioning Group</li> <li>• NOMS Health, Wellbeing and Substance Misuse Co-commissioning</li> <li>• NOMS National Operational Services Directorate</li> <li>• Director Public Sector Prisons Deputy Director High Security</li> <li>• Deputy Director Custody - Contracted Prisons</li> </ul>	<ul style="list-style-type: none"> <li>• Overall strategic governance for co-commissioning and delivery of health services in prisons and 'through the gate' in England</li> <li>• Ownership of the National Partnership Agreement, including shared delivery priorities</li> <li>• Oversight of performance and quality of delivery</li> <li>• Coordination of infection control information and outbreak responses</li> <li>• Dispute resolution</li> <li>• Manage Interfaces with Wales Offender Health partnership arrangements</li> </ul>
<p style="text-align: center;"><b>Contracted Prison Health Sub-Board (England)</b> <i>(Chair NHS England)</i></p>	<p>Chair NHS England</p> <ul style="list-style-type: none"> <li>• NHS England National Health and Justice</li> <li>• Deputy Director Custody - Contracted Prisons</li> <li>• MoJ Procurement</li> <li>• NOMS Health, Wellbeing and Substance Misuse Co-commissioning</li> </ul>	<ul style="list-style-type: none"> <li>• Compliance with Health and Social Care Act by aligning NHS England responsibilities and NOMS contract responsibilities</li> <li>• Oversight of performance and quality</li> <li>• Dispute resolution</li> </ul>
<p style="text-align: center;"><b>Regional / Cluster Partnership Boards</b> <i>(Chair agreed between NHS England &amp; NOMS)</i></p>	<p>(Name and structure will vary by Region)</p> <p>Chair agreed locally between NHS England and NOMS</p> <ul style="list-style-type: none"> <li>• NHS England Area Team Health and Justice</li> <li>• NOMS Health, Wellbeing and Substance Misuse Co-commissioning</li> <li>• Deputy Director(s) Custody</li> <li>• Public Health England Health and Justice</li> <li>• Local Authorities (where responsible for commissioning prison substance misuse services on behalf of NHS England)</li> </ul>	<ul style="list-style-type: none"> <li>• Strategic governance for co-commissioning of services in prisons and 'through the gate' in region/area</li> <li>• Oversight of performance and quality</li> <li>• Dispute resolution</li> </ul>
<p style="text-align: center;"><b>Local Delivery Boards</b> <i>(Chair- locally agreed)</i></p>	<p>Chair agreed locally</p> <ul style="list-style-type: none"> <li>• Prison representatives</li> <li>• Controllers (contracted prisons)</li> <li>• All healthcare providers (including substance misuse service providers)</li> <li>• Community Rehabilitation Companies (CRCs) from October 2014</li> </ul>	<ul style="list-style-type: none"> <li>• Joint coordination of delivery of services in establishments</li> <li>• Continuous improvement</li> <li>• Delivery of national partnership agreement locally and local protocols</li> <li>• Dispute resolution</li> </ul>

