

Dear Colleagues

INDEPENDENT REVIEW INTO THE DELIVERY OF FORENSIC MENTAL HEALTH SERVICES – RECOMMENDATION ONE

Background

In March 2019, the Minister for Mental Health commissioned an Independent Review into the Delivery of Forensic Mental Health Services chaired by Derek Barron, Director of Care at Erskine (the Barron Review). The final report was published February 2021 and made 67 recommendations to improve quality and delivery of Forensic Mental Health Services.

Recommendation 1 asked:

“It is recommended that a new NHS Board should be created for forensic mental health services in Scotland.”

Summary

The Government’s published response to this recommendation was to establish a short life working group (SLWG) to agree an approach that would deliver increased support for planning, collaboration and improvement of forensic mental health services. The intention was to fully test the proposal for a new Board against other options.

Overall, the outcome of the Options Appraisal Process suggests that continuing the status quo (individual Health Boards and Forensic Network) for the strategic governance and planning of forensic mental health services in Scotland is not supported. The final [report](#) can be found on the Scottish Government Website.

Forensic Mental Health Board for Scotland

The Minister for Social Care, Mental Wellbeing and Sport, Maree Todd, has decided that plans to establish

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Addresses

For action

The State Hospital Board for Scotland
NHS Board Chairs
NHS Chief Executives
NHS Chief Operating Officers
NHS Board Medical Directors
Mental Welfare Commission
Forensic Network
Mental Health Tribunal Scotland

For information

NHS Board Secretaries
IJB Chief Officers
NHS Chief Executive Assistants
Public Health Scotland
Health Improvement Scotland
Derek Barron, Director of Care at Erskine

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a **“Forensic Mental Health Board for Scotland”**

should be explored with the aim of delivering a national approach to planning and governance of forensic mental health in-patient services. This Board may be created by utilising or amending existing legislation and functions of the Special Health Board that is the State Hospitals Board for Scotland. Annex A provides a Q&A document with further detail.

Given the complexity of developing a single system there are still a number of options that will need to be considered as a priority to identify a practical and legal way to move forward. Therefore, the Scottish Government will establish a *“Forensic Governance Advisory Group”* to engage with stakeholders across the system to support the development of this new Board.

The aim of this group will be to identify and advise on the operational and legal changes needed to transition from existing governance arrangements to a Board with responsibilities for forensic mental health services beyond The State Hospital. In the longer term the group will oversee the transition to the new Board and become a focal point for escalating and collectively resolving current service delivery issues.

Action

Please cascade this information as appropriate within your organisation.

Kind regards



Gavin Gray
Deputy Director, Improving Mental Health Services
Scottish Government Mental Health Directorate

ANNEX A

Questions & Answers

Q. Will this mean the State Hospital Board will take over Forensic Services?

A. No. For background, the functions of the State Hospitals Board (as constituted by the State Hospitals Board for Scotland Order 1995) are limited to functions in relation to state hospitals i.e. governance of High Security services at a national level. Those patients cared for in Medium and Low secure settings as well as community based settings are managed by the governing body relevant to the locality (or region) of the service.

Although the State Hospital is situated in one place (Carstairs) the Board is an entity in itself which provides specialist services and functions across the whole of Scotland as conferred on it by the Scottish Ministers. So, although there is only one State Hospital currently and it is situated in Lanarkshire, the State Hospitals Board is not a territorial board as it provides those specialist psychiatric care services and wider functions regarding the state hospital for the whole of Scotland.

Therefore we ultimately plan to use the current legislation that underpins the State Hospital Board for Scotland and amend the functions to provide a platform to deliver a national approach to planning and governance of forensic mental health services across Scotland.

Q. Will the new board be situated in North Lanarkshire, Carstairs?

A. It is recognised that previously there were strong views about any new Board being physically located separate from TSH. This will be a consideration for the new Forensic Governance Advisory group.

Q. Will this result in changes to The State Hospital Board Membership?

A. Yes. The Forensic Mental Health board will be expected to take on broader functions in relations to forensic mental health, therefore the current State Hospital Board for Scotland will have to be re-constituted to reflect an increase in membership of services across the entire estate.

Q. What will the role of this “new” board be?

A. It is envisaged that the prime responsibility of any Forensic Mental Health Board would be to ensure that Forensic patients are receiving the appropriate care and treatment. To do so, as a minimum it would have to co-ordinate planning and needs assessment and support the development of services at national, regional and local levels. The primary role of the Forensic Governance Advisory group will be to consider a number of options to identify a practical and legal way forward.

Q. Do we need a new governance structure?

A. We understand that a national governing body won't be universally supported. The previous SLWG also echoed this. However we do not believe that the status quo is sustainable. Each governing body currently has different priorities, resources and populations needs that has led to disparity across forensic mental health. This is understandable but when looked at from a national perspective this can present as an inequality of access to services depending on where a person lives. It also means

that forensic mental health services in Scotland can, at times, operate as a collection of distinct services rather than on integrated system. This is particularly apparent with the number of current pressures across the system which could be addressed more effectively if there was coherent oversight.

Q. What will the Forensic Governance Advisory Group membership look like?

A. The Advisory Group requires to be a small focussed group of representatives that can lead this complex project. Scottish Government officials will therefore work with internal and external colleagues to identify a Chair and membership that can drive forward this complex project with relevant experience in Governance and Planning. To ensure this approach remains inclusive we would ensure that the group engaged widely with all relevant interests.

Q. What will the role of the Advisory Group be?

A. The role of the Forensic Governance Group is to oversee the development and delivery of a Forensic Mental Health Board for Scotland. The group will look to consider and advise on all of the operational and legal concerns of the agreed way forward by exploring agreed options and developing the key functions required to recast the State Hospital Board for Scotland into a Forensic Mental Health Board.

The group will act to advise on how best to ensure effective integration of this new Board with existing national and local pathways of care providing forensic services

Q. What will happen to the Forensic Network?

A. The role of the Forensic Governance Advisory Group will be to consider the future of the Forensic Network, or delegate that function to the new Board to consider. However it is expected that the network will play a key role in the next steps and will continue to operate as is until any final decisions are made

Q. Has there been a budget allocated to this work?

A. As you know the financial environment remains challenging as a result of a range of pressures, including inflation, Brexit, the cost of living and higher than anticipated pay settlements. As a result, difficult decisions had to be made to allow us to balance the Scottish Government's 2023-24 budget and one implication of this was to pause activity where investment had not yet started. Delivering Barron was one of the areas that was classed as new activity, so additional funding has been paused for the time being. However, this does not mean that activity on forensic mental health will be cut back, but we will focus on considering what can be done collectively, with the existing resources in the system as these challenges continue.

Q. What Impact will this have on territorial boards?

A. In considering the functions of a Forensic Mental Health Services Board, the Advisory Group will have to consider how its functions align with territorial health board accountabilities for the planning and provision of services. Depending on the functions of the new board it may also be necessary to amend the functions of territorial health boards. This will result in operational and practical issues that will require further legal advice. The Advisory Group will also consider any implications this may have on workforce and actively engage with trade unions throughout this process.