

Independent Review into the Delivery of Forensic Mental Health Services

What we think should happen

Executive Summary

Final Report

February 2021

Message from the Chair

I want to say thank you to everyone who helped me do this review. My employers and colleagues at Erskine supported me to be seconded to do this work. Chairs of other reviews gave me good advice and the secretariat team worked very hard. I was able to speak to people receiving forensic mental health services and their families. I was also able to speak with staff working within or supporting the work of these services.



I am very grateful to everyone who generously shared their time and expertise.

My interim report showed the system has problems with significant variation, capacity and timely transitions between services. There is a need for a governance structure with proper oversight and authority to make services better coordinated. The structural problems in the forensic system can have a negative impact on the people in its care. Forensic mental health services must work in a person-centred way to minimise these ill effects.

This report is a summary of my recommendations about forensic mental health services. It aims to guide the establishment of a forensic system with co-ordinated services that offer a smooth rehabilitation pathway for all the individuals in its care.

A handwritten signature in black ink, appearing to read "Derek T Barron".

Derek T Barron, Chair of the Review

Introduction

In March 2019, the Scottish Government Minister for Mental Health announced that there would be an Independent Review of the Delivery of Forensic Mental Health Services. Forensic mental health services are different from general mental health services because they look after people who have offended, or are at risk of offending, because of a mental disorder. In this report the term ‘forensic mental health services’ includes forensic learning disability services. The Review was asked to look at the way they work because of changes that have happened in recent years.

In August 2020, we published an interim report called *What People Told Us*.¹ It summarised the evidence we received about forensic mental health services. This report uses that evidence to make recommendations about what should happen now.

1 Principles

We think that forensic mental health services should work to some important principles. These are human rights, reciprocity and person-centred practice.

Forensic mental health services look after people with a history of serious offending. This means there are more restrictions placed on people in these services than in general mental health services. A human rights approach helps make sure that people do not lose too much freedom or opportunities for rehabilitation and recovery. People in forensic mental health services should have as much freedom as possible whilst keeping themselves and other people safe.

Reciprocity means that having restricted someone’s freedom, forensic mental health services need to give them the best possible chance to get better so they can move to lower security or back to their home. As part of this, people need to be given opportunities for rehabilitation and recovery so they feel in control of their lives and have hope for the future. Reciprocity also means that nobody should be delayed from moving to lower security once they are ready to.

¹ Independent Review into the Delivery of Forensic Mental Health Services (2020) *Interim Report: What People Told Us*. Available at: <https://www.gov.scot/publications/independent-forensic-mental-health-review-interim-report/>

Person-centred practice is about treating people with dignity and respect. Forensic mental health services need to recognise that the people in their care are individuals. People need to be included in decisions about their care and treatment wherever possible.

2 Governance and strategy

Forensic mental health services are provided by different NHS Boards within Scotland. The high secure service is provided at a national level by the State Hospitals Board for Scotland. Medium secure services are provided on a regional basis by NHS Greater Glasgow and Clyde, NHS Lothian and NHS Tayside. The development and oversight of low secure and community services is the responsibility of local territorial Health Boards or Health and Social Care Partnerships. This varied governance landscape means the forensic mental health services are a collection of distinct services rather than one integrated system.

The Review heard strong views about the wide variation and gaps in existing governance, oversight, responsibility, protocols, practice and provision across the different services. People said services should be able to work in different ways so that they can respond to local needs. However, it is important that differences do not disadvantage the people who are receiving care. People receiving care feel that the differences can be unfair and that they can be put at a disadvantage depending on where they live. Staff said there should be more formal arrangements about how services work together.

We recommend that there should be a new NHS Board for forensic mental health services. This new Forensic Board will be able to make sure that different forensic services work more consistently. The new Forensic Board should manage all forensic mental health services. It should also manage the forensic learning disability services at high and medium security. We talk about forensic learning disability services at low security and in the community in Section 7.1.

3 Defining forensic

This Review found that it can be hard to say who needs forensic mental health services and who does not. Some services only care for people with a serious mental illness or learning disability who have committed an offence. But other services sometimes care for people who have not committed an offence or who have a different diagnosis, for example personality disorder. There needs to be more agreement about who forensic mental health services care for. This Review recommends that the definition and purpose of 'forensic mental health services' should be looked at by experts from different staff backgrounds and different agencies. The definition that they agree on should be used to help set up the new Forensic Board.

4 Women's pathways

There is no high secure provision for women in Scotland. Women have to go to England for high secure care and treatment. Everyone agrees this arrangement does not work well. It might also be against women's human rights. Women need to have the same access to forensic mental health services as men. We recommend that a high secure service should be opened for women in the State Hospital. This should be done within nine months of this report being published. It should be designed and staffed so that it is suitable for women with a mental illness and women with a learning disability.

There is no coordinated pathway for women through other parts of the forensic mental health system. The Orchard Clinic in NHS Lothian and Rowanbank Clinic in NHS Greater Glasgow have medium secure beds for women. Other areas can access these beds but only on a 'spot purchase' basis when capacity allows. Women who need low secure services are not always placed somewhere that meets their needs. The lack of spaces also makes it difficult to move women from prison to hospital when they need forensic mental health care.

A report completed by the Forensic Network before this Review was set up made some recommendations about provisions for women who need medium or low secure services. There was a working group to look at the whole pathway for women in the forensic system which stopped its work when this Review happened.

We recommend that this working group restarts its work. It should identify and develop an appropriate pathway for women through all forensic settings. This must detail a clear pathway for women needing to transfer from prison.

5 Capacity and transitions

5.1 Data collection and monitoring

There are key gaps in the data collected and reported on around forensic mental health services. There are no consistent records about how long people have to wait to move between different parts of the system or how long they stay there altogether. This makes it hard to see how well the system is performing. We recommend that the Scottish Government get the Information and Statistics Division of National Services Scotland to develop a data collection system for forensic services. This system should collect, monitor and report data about capacity and flow through the forensic system.

5.2 Pressures on medium secure services

There is a lack of capacity in some parts of the forensic system. People can experience long waits to transfer from high to medium secure services. One of the problems with space at medium secure is that there are also delays moving people on from medium to low secure services.

When people have to wait a long time to move down security levels it means they are not being held in the least restrictive conditions necessary to manage their risk. They can become demotivated and more vulnerable to further mental health setbacks and greater institutionalisation. NHS Greater Glasgow and Clyde is planning to expand their medium secure service at Rowanbank. We recommend that they should continue with these plans to increase the capacity of medium secure forensic services. We also recommend that the new data collection system includes a record of any delays people experience when they are waiting to be transferred between secure services and that any delays over four months are reported to the Scottish Government.

5.3 Moving into the community and CFMHTs

5.3.1 Community support and accommodation

Our interim report found that it can take a long time for people in low secure services to move into the community. People who are ready to be discharged can experience delays because it is hard to find the right community support and accommodation. We recommend the new Forensic Board should work with social work teams and housing departments to make sure that there is the right kind of support and accommodation available in the community. They should also work together to create a strategy that makes sure people can begin their discharge process at the right time. We also recommend that, as soon as this report is published, all forensic mental health services should identify anyone who has experienced a delay to their discharge plans of six months or more. They should show they have a plan for making sure that person is discharged soon.

5.3.2 Appeals against conditions of excessive security in low secure

People in high secure or medium secure services can apply to the Mental Health Tribunal for Scotland if they think they are being held in conditions that are too restrictive. At the moment, people who are in low secure settings cannot. They also cannot appeal if their plans for discharge are delayed because of a lack of accommodation or support in the community. We recommend there should be an appeal process for people in low secure settings.

5.3.3 Discharge planning

The Scottish Government has to agree before some people in forensic mental health services can move into the community. People said the way this happens could be made simpler and is not always person-centred. People on a compulsion order and restriction order have to do a number of overnight stays in their community accommodation before they can be discharged. They have to pay rent to do this and sometimes they get into debt. We recommend that forensic mental health professionals work with the Scottish Government and MAPPA to see if the discharge process can be made clearer and easier. We recommend that the Scottish Government and the new Forensic Board make sure there is money available so people do not have to go into debt when they start staying in community accommodation.

5.4 Community Forensic Mental Health Teams

Community Forensic Mental Health Teams (CFMHTs) are important for helping people to safely move on from hospital and remain well in the community. At the moment, CFMHTs across the country do things differently. They do not all have the same referral criteria for their service. We recommend that the new Forensic Board should define the service remit of community forensic mental health teams. This includes saying who should be part of their staff teams and what groups of people they should work with. The new Forensic Board should make sure that CFMHTs are properly resourced (financially and in terms of multi-disciplinary staffing levels) to meet the demand for their services.

6 Person-centred practices

6.1 Care and treatment

6.1.1 Multidisciplinary teams

Professionals with many different kinds of expertise should be involved in each individual's care. These multidisciplinary teams help make sure that all of a person's needs are taken into account. We recommend that all professionals working in forensic mental health services are given the same amount of respect. We also recommend that the new Forensic Board should make sure that social workers are included in multidisciplinary teams.

6.1.2 Participation and decision making

People should be supported to participate as much as possible in decision-making about their care and treatment. Staff should start conversations with people about their care and give them opportunities to have their say. Staff should make sure people have enough information and know their rights. Staff must communicate in a style that best enables people to understand what is happening and supports them to voice their opinions. If information and advice is written down it should be in a way people can understand.

6.1.3 Involving people's family members

Family members often feel they are not as involved in their relative's care as they would like.² However, they can provide critical information about their relative and are an integral part of their support network throughout their time in forensic services. When the person gives their permission the family members should be involved in their relative's care and treatment. Family members should be listened to and included in decision making. We recommend that there should be a named member of staff who families can talk to. We recommend that the new Forensic Board ensures there is an advocacy service for family members. Relatives coming to visit at the State Hospital can claim their travel expenses. We recommend that until the new Forensic Board can take this on, NHS Boards should pay family members' travel expenses when they go to see their relatives, if they are placed out of area for forensic mental health care and treatment.

6.1.4 Complaints

People should be able to complain if they have a problem with their care and treatment. Sometimes people are worried about complaining because they think it will impact on their progression. The new Forensic Board needs to make sure there is a way for people to tell staff about a problem without feeling worried. The new Forensic Board should invest in group advocacy for people being cared for by forensic services.

6.1.5 Transfer of Suspension of detention (SUS) plans

Restricted patients have to have agreement from the Scottish Ministers before they are allowed some freedoms. This includes any plan for suspension of detention (SUS) which allows them to go outside the hospital. People often lose their SUS plans when they move to a lower level of security. It can then take a long time to build their SUS back up to the same level. People found this frustrating and unfair. Existing SUS plans can be transferred though. We recommend the Scottish Government should look at how its guidance on the way SUS plans can be transferred, is better used to make sure freedoms are not reduced for longer than is

² The term 'family members' is used here to represent anyone who supports or is concerned in some way about a person receiving forensic mental health services. This could be a family member, a friend or neighbour.

needed. We recommend people get a chance to discuss how their SUS plans might change before they move anywhere.

6.2 Social and environmental conditions

6.2.1 Physical environment

Some of the physical estate across forensic mental health services is getting old and needs updating. The physical space is not always well designed for care and treatment like psychological therapies. We recommend that all Health Boards make sure their ward environments and outdoor spaces are comfortable and safe and make people feel valued. Evidence about therapeutic environments should be used to plan how existing units are improved and how new units are designed.

6.2.2 Person-centred practices

Rules around personal and communal space vary across the forensic system. Some people are still accommodated in dormitories. Some people have access to their bedrooms whenever they want but in other places bedrooms are locked during the day. There are also differences in how many personal items people can have with them and what technology they can use. We recommend that everyone should have their own room. We recommend that the new Forensic Board should make Best Practice guidelines about what people should be able to do when they are in hospital.

6.2.3 Access to activities and community placements

People in the forensic system need to do regular activities and community placements before they can be discharged into the community. Staff told us that the number of these community placements is going down. Community organisations said they do not always have the right skills to support people coming from forensic mental health services. We recommend that the Scottish Government and forensic mental health services should work together to make sure there are enough community placements. We recommend that community staff trained to work with people from the forensic system are paid enough so that they stay in their jobs. We recommend that the Scottish Government should work with Allied Health Professionals on their guidance to support people with a forensic background into work, volunteering or education.

7 Specific groups

7.1 People with learning disabilities

Professionals said sometimes people with a learning disability are sent to hospital for offences that would not have resulted in them receiving a prison sentence. The Review also heard of people being detained in hospital for much longer than the prison sentence that may have been imposed for comparable offences. We recommend research is undertaken to establish the extent of any difference people with a learning disability experience relating to these issues. Professionals and people with learning disabilities agreed they should be supported to go through the criminal justice system if they can. We recommend that this should happen.

Many of the forensic learning disability services at low secure and community settings are managed under general learning disability services. General learning disability services have a lot of expertise on how to help people with a learning disability move from living in hospital to living in the community. On balance, we recommend that low secure and community forensic learning disability services should be managed by general learning disability services, rather than by the new Forensic Board. This arrangement should be looked at again after the new Forensic Board has been set up.

People with a learning disability spend longer in hospital than other people in the forensic system. It is more difficult for someone with a learning disability to move from hospital to the community. This can be because it is hard to find the right accommodation and support. We recommend that local authorities need to make sure that there is the right kind of accommodation and support available in the community. This includes making sure that people have a choice about where they live and that the accommodation can be adapted to meet people's sensory needs.

7.2 People with neurodevelopmental disorders

The forensic mental health system does not make any special provision for people with autism or other neurodevelopmental disorders. Some staff are worried this means some people cannot get specialist support when they need it. The new Forensic Board should find out how many people with neurodevelopmental disorders need forensic support, then it should decide what support to offer them.

7.3 Young people

We were told it can be difficult to get mental health support for children and young people. At the moment, there is no provision in Scotland if they need secure care. There are plans to build a special secure unit for people under 19 years old; it is due to open in 2022. We do not think this unit should be part of the new Forensic Board. We recommend that the unit provides forensic specialist expertise to local Community Adolescent and Mental Health Teams.

7.4 Older adults

The number of people over 65 in forensic mental health services is small but rising. Some older adults will have additional needs linked to their age, like dementia and more physical health problems. There is no specific forensic pathway for older people with these needs. It can also be very difficult to find care homes in the community who will accept people from forensic mental health services. We recommend that the new Forensic Board should assess how many people have additional care needs because of their age. We recommend that the new Forensic Board should develop a pathway that meets older adults' care and risk management needs.

7.5 Northern Ireland

People from Northern Ireland who need high secure services come to the State Hospital in Scotland for care and treatment. This is because there are no high secure services in Northern Ireland. At the moment, the State Hospital does not charge any money to look after people from Northern Ireland. We recommend that the State Hospital starts to charge Northern Ireland for this service.

8 Sharing information and expertise

8.1 Sharing information about people in forensic mental health services

There needs to be a consistent way of sharing information so that different forensic services can work well together. We recommend that the new Forensic Board should use one single electronic health record system across all its inpatient and community services. All staff working in forensic services should have to use this system. The new Forensic Board must make sure all staff have the right kind of technology to do this. We also recommend that the new Forensic Board should develop a procedure for sharing information with outside organisations.

8.2 Organisations requiring forensic mental health expertise

Sometimes organisations outwith forensic mental health services need information or advice from forensic professionals so they can do their jobs. One example is for MAPPA (Multi Agency Public Protection Arrangements). Some NHS Boards have set up ways of providing MAPPA with specialist information and advice but this is not available everywhere. It also works differently in different places. We recommend that the new Forensic Board should develop a consistent way of providing information and advice to external organisations.

It is important that courts have access to psychiatric and psychological reports about people's mental health. They need this information to decide things like whether a person should go to prison or to hospital for treatment. Courts can find it difficult to get the right people to write these reports. When courts have to wait a long time for these reports then people's cases can be delayed. This means people have to wait longer to find out what will happen to them. We recommend there should be an appropriately funded, national arrangement for providing court reports. The Scottish Government needs to work with the NHS, the Scottish Courts and Tribunals Service and the Crown Office and Procurator Fiscal Service to agree this arrangement within one year of this report being published.

8.3 Research, education and training

Professionals from all kinds of backgrounds need to have the right skillsets to work with people in forensic mental health services. We recommend that the new Forensic Board and the School for Forensic Mental Health set evidence-based standards for staff skillsets and training. This includes making sure that staff know about best practice in caring for and treating people with a learning disability. We recommend that the new Forensic Board should consider developing a specialist training programme for forensic professionals so that they can build up an understanding of all parts of the forensic pathway. We also recommend that the new Forensic Board should help to make sure that staff in community organisations have enough training to work with people in forensic services.

9 Next steps

This report has been given to the Minister for Mental Health. The Scottish Government will now decide what should happen next.



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