



Comisiynydd Pobl Hŷn Cymru
Older People's Commissioner for Wales

**Response from the Older People's Commissioner
for Wales**

to

**National Assembly for Wales, Health, Social Care
and Sport Committee: Provision of Health and
Social Care in the Adult Prison Estate**

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About the Commissioner

The Older People's Commissioner for Wales protects and promotes the rights of older people throughout Wales, scrutinising and influencing a wide range of policy and practice to improve their lives. She provides help and support directly to older

people through her casework team and works to empower older people and ensure that their voices are heard and acted upon. The Commissioner's role is underpinned by a set of unique legal powers to support her in reviewing the work of public bodies and holding them to account when necessary.

The Commissioner is taking action to end ageism and age discrimination, stop the abuse of older people and enable everyone to age well.

The Commissioner wants Wales to be the best place in the world to grow older.

The Older People's Commissioner for Wales:

- Promotes awareness of the rights and interests of older people in Wales.
- Challenges discrimination against older people in Wales.
- Encourages best practice in the treatment of older people in Wales.
- Reviews the law affecting the interests of older people in Wales.

Introduction

I welcome that the Health, Social Care and Sport Committee is undertaking an Inquiry into the provision of health and social care in the adult prison estate, which will include looking into how well prisons in Wales are meeting the complex health and social needs of a growing population of older people in prison.

The growth in the older prison population, combined with the generally poorer health of prisoners, means that the prison service may increasingly need to care for older prisoners with complex health and care needs – potentially including cognitive impairment end of life care. Furthermore, in Wales a unique relationship exists between the devolved nature of health and care provision and the non-devolved justice system. Focused planning and funding, specifically for the needs of older people in prison, is now needed, with a joined-up approach across health, care and prison agencies.

I am aware that the issue of health and social care provision across the secure estate has been examined in recent years by Parliamentary Committee inquiries and inspectorate thematic reports across England and Wales, and Scotland¹. A significant amount of the evidence in this submission is sourced from those inquiries, alongside information specific to the Welsh context – aided by a recent visit I undertook to HMP Usk.

Summary

- **Rights:** Older prisoners have a right to health and care provision equivalent to that in the community.
- **Funding:** The Social Services and Well-being (Wales) Act 2014 has clarified the responsibilities for social care within prisons. However, the momentum following implementation must continue, and the funding must be focused on, and sufficient for, those local authorities that have prison populations within their boundaries.
- **Planning:** As the prison population ages, there is a need to plan more effectively to meet the health and care need of older prisoners, including those living with dementia.
- **Staff & Training:** All relevant staff within the prison service and providing health and care to prisoners must be appropriately trained to support older prisoners with complex needs. In particular, there should be a specific focus on the recruitment and retention of social care / support staff working with or in prisons.
- **Physical environment:** The physical environment, particularly of Victorian prisons, is prohibiting adaptability and accessibility for older and disabled prisoners.
- **Release:** Due to the potential health and care needs of older prisoners – the likelihood that they have fewer family or community connections and the nature of many convictions – it is likely that additional time and resources will be needed to facilitate the release planning for older prisoners.

Prison population, age and health

Older prisoners are the fastest growing demographic group in prison in England and Wales, with the number of prisoners aged 50 or older increasing by 150% in England and Wales since 2002². In September 2011, 10.4% of the prison population in England and Wales were aged 50 or above. By September 2018, this number had increased to 22.5% of the population³. In Wales, 17.2% of prisoners were aged 50 or above (September 2018). In the case of HMP Usk, 1 in 5 prisoners are aged 60 or above and 40% are over the age of 50 (June 2018)⁴. Older prisoners across England and Wales are predominantly male⁵, and Wales itself does not have any female prisons.

This rise in the older prison population is generally attributed to harsher sentencing practices, technological advances in detection, a growing number of people who have entered old age within prison⁶ and convictions of historic offences.⁷

The Prison and Probation Ombudsman found that the average life expectancy of a prisoner in England and Wales is 56⁸ – far lower than the average life expectancy of the general Welsh population (men - 78, women – 82).⁹

The health of the prison population is worse than that of the general population: by the time an individual in prison reaches 50 years old their body will function at a level 10 years older. The prevalence of alcohol and substance misuse, smoking, blood-borne viruses and non-communicable diseases among prisoners can be up to 15 times higher than the general population¹⁰, and up to 90% of prisoners over 50 have at least one moderate or severe health condition, with more than half having three or more.¹¹ It is also estimated that over half of older male prisoners in England and Wales suffer from depression (31% mild and 23% severe)¹². These differences in health have attributed to why the definition of older age in prison is 50 years old¹³, lower than the 60 years that is set out in the Commissioner for Older People (Wales) Act 2006.

As noted above, due to there being no female prisons in Wales, this response is referring to an older male prison population. However, the Committee may wish to explore whether there are any challenges in release planning and continued health and care provision for older female prisoners being released from prison in England to Wales.

Health Provision

A prison sentence is a deprivation of someone's liberty; it is not a sentence to poorer health or poorer health and care services. All relevant NHS standards in Wales apply to health care services for prisoners, with exceptions only where the constraints of the custodial environment are over-riding¹⁴.

This view was aired strongly through evidence to the House of Commons Health and Social Care Committee, and included discussions surrounding the idea that prisoners' right to health is woven into international law¹⁵:

“... a right to the enjoyment of a variety of facilities, goods, services and conditions necessary for the realisation of the highest attainable standard of health.”

Article 12 of the International Covenant on Economic, Social and Cultural Rights

The right to health underpins the idea of equivalence, where prisoners access to and quality of services should be equivalent to that of the general public. However, despite a long-standing recognition of this principle by prison and health services¹⁶, there is currently no resource describing how equivalence should be defined, measured and compared with health and care in the community¹⁷.

It is therefore positive to note that the UK Government's response to the House of Commons Health and Social Care Committee in January 2019 stated that the National Prison Healthcare Board will develop a shared definition of equivalence of care¹⁸.

While HM Inspectorate of Prisons for England and Wales has found that most prisons provide good health care, there have been recurrent concerns across services, including:

- low health staffing levels;
- excessive waiting times for some services; and,
- inadequate management of lifelong conditions.¹⁹

The current provision in terms of staffing and the physical estate appears to be inadequate to respond to the specific health needs of older prisoners. For example, the House of Commons Justice Committee Inquiry, *Prison Population 2022: Planning for the Future*, heard from witnesses that staffing was insufficient to support an increasing number of hospital appointments and bed watches, and the places in palliative care units and dedicated units for older prisoners were insufficient for the size of the older population.²⁰

As the prison population ages, prisons will need to plan for the care and support needs of prisoners who may be living with a sensory loss, cognitive impairment or a diagnosis of dementia. However, the Alzheimer's Society has raised concerns about the levels of dementia diagnosis among prisoners and awareness amongst prison officers.²¹

The physical constraints of the prison estate mean that older or less mobile prisoners can be poorly accommodated, with cell showers, walkways and stairwells proving inaccessible²² and communal facilities (such as libraries) being found on upper floors²³. These physical constraints are particularly prominent in the Victorian prison estates like HMP Usk. During my recent visit I saw good practice within these constraints, and effective joint working between health, social care and the prison. However, restrictions due to listing and/or preservation have the potential to prohibit or limit adaptations to the physical environment that would improve the accessibility and safety of the physical environment.

The House of Commons Health and Social Care Committee found that there can be little support for older prisoners to remain active and productive if they cannot participate in the usual prison regime.²⁴ This could have a negative impact not only on the ability of older prisoners to remain physically fit, but on their ability to support their mental health by remaining in contact with and connected to the wider prison community.

Social Care Provision

Under the Social Services and Well-being (Wales) Act 2014 (SSWB Act), local authorities have a legal obligation to assess the need for, and provide social care to, people whose needs make them eligible. This obligation applies to those in prisons and prisoners are entitled to have access to care provision that is the equivalent of someone in the community. Prior to the SSWB Act, it was not clear who was responsible for providing social care for prisoners, and provision in prisons was therefore often deemed to be lacking.²⁵

The HM Chief Inspector of Prisons Annual Report 2017-18 found since the implementation of the SSWB Act and Care Act 2014 (in England), provision has developed well in many prisons, and was exceptional in some. An example of good practice found at HMP Usk was highlighted in the report:

“Social care staff saw all new arrivals at Usk during induction. A social care prisoner coordinator also saw new men promptly and implemented an emergency support plan with the prisoner buddy coordinator, which was then reviewed by the social care team. Well-trained and supervised prisoner buddies were allocated to clients, followed a care plan and kept daily records. The social care team reviewed care plans at the monthly buddy meeting.”²⁶

Innovations in practice, and the use of smart technology to support social care provision within the community can be adopted for use within prisons. For example, some prisons across England and Wales, such as HMP Usk (Monmouthshire)²⁷ and HMP Wymott (Lancashire) have introduced telecare pendants and bed sensors to alert staff if an inmate has fallen or become unwell throughout the night. Before telecare at HMP Wymott, the council’s adult social care team had carers working in pairs sitting outside the cell of a vulnerable older inmate, telecare saved Lancashire county council £172,000 in one year for six prisoners and alerted staff to a prisoner having a stroke within days of its installation²⁸.

Further ideas for practice when supporting older people in prison have been published in the past by Age UK,²⁹ including:

- In-reach provision of day services such as a programme of speakers, outdoor activities and life-skills training,
- Provision of information, advice and advocacy for example when making applications or requesting equipment (such as wheelchairs),
- Training and support for release, for example supporting older prisoners to be volunteers at a café in the visitors room.
- Advice on setting up older prisoners forums

I am also aware of links being made between a local ‘Men’s Sheds’ and Parc Prison in Bridgend to explore the possibility of setting up a ‘shed’ within the prison, or links to a ‘shed’ in the community that prisoners could connect with upon release³⁰.

Despite improvements since the SSWB Act and the introduction of some technologies, HM Inspectorate of Prisons and the Care Quality Commission found in their thematic report on social care in prisons in England and Wales that care is still inconsistent

across prisons, and prisons and local authorities are failing to plan for the future social care needs of a growing population of older prisoners. Findings included:

- Some prisoners struggle to wash and look after themselves and others who have fallen cannot get help during the night.
- Developments in social care only related to current need and weren't responding to predicted prison populations.
- Gaps remain in the provision of support for those prisoners requiring assistance with personal care who do not meet the eligibility threshold for social care.³¹

Concerns have also been raised with me regarding the ability to recruit and retain social care staff who are able and willing to work in the secure estate, and the funding available for the provision of social care within prisons, which must be focused on, and sufficient for, those local authorities who have prison populations within their boundaries.

Natural Deaths

Prisoners aged 60 and over are more likely to die in custody compared to any other age group. Natural deaths are the leading causes of mortality in prisons. Those aged over 50 accounted for 86% of all natural cause deaths in 2018, and the age group with the majority of all natural cause deaths were aged 60 or over (64%).³²

Dr Robert Jones, of the Wales Governance Centre raised the issue of natural deaths with this inquiry. He stated:

“...With older prisoners - at HMP Usk, between 2013 and 2018, there were 11 natural deaths. Between 1978 and 2012 - a 34 - year period - there were 11 natural deaths. So, there have been as many natural deaths in the last six years at Usk/ Prescoed as there have been for the 34 years previous. Now, that might be because of the way it's been recorded. The population at Usk and Prescoed has gone up as well—it's occasionally one of the top-10 overcrowded prisons in England and Wales—but I think the natural deaths is something that often gets overlooked.”³³

Similarly, in its evidence to the House of Commons Health and Social Care Committee, INQUEST (the charity providing expertise on state related deaths) raised concerns regarding whether any of the natural deaths are actually premature or avoidable – stemming in part from lapses in care.³⁴

The Prisons and Probation Ombudsman (PPO) is required to undertake an investigation of every death that occurs in a prison setting (with input from Healthcare Inspectorate Wales).³⁵ As the prison population ages, inspectorates and other relevant bodies may wish to undertake further research / investigation into natural deaths in prisons to determine the causes behind these deaths and why these figures have increased so significantly in recent years.

Release Planning

The unmet health and social care needs of older prisoners are particularly noticeable at moments of transition, such as on entry and discharge from prison³⁶.

As the prison population ages, it seems likely that it will become more common for prisoners to be in need of care and support through social services upon release, or even to be released into a care home.³⁷ Older prisoners may also have no family or community links or have elderly family members who either have special requirements of their own or who need to travel miles to visit.³⁸

Many older prisoners being released after lengthy sentences may not be accustomed with using plastic cards or smart phones, and the processes for accessing and pensions can be complex.³⁹

In addition to these challenges, the majority (60%) of prisoners aged over 60 are convicted of sexual offences⁴⁰ and as a result of the nature of their crimes, may have even fewer family or community links and more complex resettlement needs.

The requirements under the SSWB Act have clarified who is responsible for social care for prisoners, and has also had the effect of improving liaison between the local authority responsible for the prisoner while in custody and the receiving authority upon release and resettlement. For example, in HMP Usk resettlement packs are now being provided to prisoners upon release and reablement packages to aid orientation upon release can be arranged through close working between both local authorities.⁴¹ This means that older prisoners may be better supported to access the social care and support to which they have a right upon release which could help to reduce re-offending.

However, the House of Commons Health and Social Care Committee found that there are instances where a prisoner may be released homeless, without social care support or being registered with a GP.⁴²

Older prisoners have a right to access social care and support, both throughout their custodial sentence and upon release. However, given the growing older prison population and the increased complex needs that this may bring, multiple agencies will need to work together to plan for and adequately resource this support during and after release. This includes both the local authority responsible for care during custody, and the authority receiving a prisoner upon release, and the prison and probation services.

Conclusion

The evidence gathered in this submission demonstrates that the growth of the older prison population is well known, This growth, combined with the generally poorer health of prisoners, means that the prison service may increasingly need to care for older prisoners with complex health and care needs – potentially including cognitive impairment end of life care. The unique relationship between the devolved nature of health and care provision alongside the non-devolved justice system provides an opportunity for Welsh Government, prison services, health boards and local authorities to work together to adequately plan how they will meet these needs and ensure that the services required are sufficiently resourced.

If you would like to speak about this evidence in further detail, please contact my Health and Care Lead, xxxx

¹ House of Commons, [Health and Social Care Committee](#), Prison Health, 2018; House of Commons Justice Committee, [Prison Population 2022](#) ; Care Quality Commission & HMIP, [Social Care in Prisons in England and Wales](#), 2018; Scottish Parliament, Health and Sport Committee, Healthcare in Prisons, 2017; HM Inspectorate of Prisons for Scotland, Who Cares? The Lived Experience of Older Prisoners in Scotland's Prisons, 2017

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- ² House of Commons Library Briefing Paper, [UK Prison Population Statistics](#), July 2018
- ³ NAFW, Health, Social Care and Sport Committee, Written Evidence, The Provision Of Health And Social Care In The Adult Prison Estate, Dr Robert Jones, Wales Governance Centre At Cardiff University, March 2019
- ⁴ NAFW, Health, Social Care and Sport Committee, Written Evidence, The Provision Of Health And Social Care In The Adult Prison Estate, Dr Robert Jones, Wales Governance Centre At Cardiff University, March 2019
- ⁵ Centre for Policy on Ageing, [Diversity in Older Age – Older Offenders](#), 2016
- ⁶ Age UK, [Support older people in prison: ideas for practice](#), 2011
- ⁷ International Longevity Centre UK, [Not so Young Offenders: older people and the criminal justice system](#), 2018
- ⁸ Prison and Probation Ombudsman (2012) – [Learning from PPO investigations: Natural cause deaths in prison custody 2007-2010](#). March 2012
- ⁹ Office for National Statistics, [National Life Statistics, Wales](#), September 2018
- ¹⁰ The Alzheimer’s Society, [The Prison Project](#), 2016
- ¹¹ Guardian, [How smart tech is giving ageing prisoners a lifeline](#), 6 March 2019
- ¹² Centre for Policy on Ageing, [Diversity in Older Age – Older Offenders](#), 2016
- ¹³ Care Quality Commission & HMIP, [Social Care in Prisons in England and Wales](#), 2018
- ¹⁴ NHS Wales, [Governance E-Manual](#)
- ¹⁵ House of Commons, [Health and Social Care Committee](#), Prison Health, 2018 ; Royal College of General Practitioners, [Equivalence of care in Secure Environments in the UK: Position statement](#), July 2018
- ¹⁶ Her Majesty’s Prison Service and NHS Executive, The Future Organisation of Prison Health Care: Report by the Joint Prison Service and National Health Service Executive Working Group, March 1999
- ¹⁷ Royal College of General Practitioners, [Equivalence of care in Secure Environments in the UK: Position statement](#), July 2018; [National Audit Office, Mental health in prisons, HC42 Session 2017–2019 29 June 2017](#)
- ¹⁸ [UK Government Response to the Health and Social Care Committee's Inquiry into Prison Health](#), January 2019
- ¹⁹ [HM Chief Inspector of Prisons for England and Wales Annual Report 2017–18](#)
- ²⁰ House of Commons Justice Committee, [Prison Population 2022](#)
- ²¹ The Alzheimer’s Society, [The Prison Project](#), 2016
- ²² House of Commons Justice Committee, [Prison Population 2022](#) ; Care Quality Commission & HMIP, [Social Care in Prisons in England and Wales](#), 2018
- ²³ Older People’s Commissioner for Wales visited HMP Usk on 30.04.2019
- ²⁴ House of Commons, [Health and Social Care Committee](#), Prison Health, 2018
- ²⁵ Care Quality Commission & HMIP, [Social Care in Prisons in England and Wales](#), 2018
- ²⁶ [HM Chief Inspector of Prisons for England and Wales Annual Report 2017–18](#)
- ²⁷ Older People’s Commissioner for Wales visited HMP Usk on 30.04.2019
- ²⁸ Guardian, [How smart tech is giving ageing prisoners a lifeline](#), 6 March 2019
- ²⁹ Age UK, [Support older people in prison: ideas for practice](#), 2011
- ³⁰ ‘Men’s Sheds’ are social groups or enterprises set up in local communities for the benefit of men: <https://www.mensshedsymru.co.uk/what-is-a-mens-shed/>
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- ³³ Dr Rob Jones (oral evidence), [Health, Social Care and Sport Committee, National Assembly for Wales](#), 27 March 2019
- ³⁴ [Written evidence from INQUEST](#), House of Commons, Health and Social Care Committee, Prison Health, 2018
- ³⁵ [Healthcare Inspectorate Wales, Annual Report 2016-2017](#)
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- ⁴⁰ Centre for Policy on Ageing, [Diversity in Older Age – Older Offenders](#), 2016
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