January 2020

CLINKS RESPONSE

Clinks and RECOOP submission to the Justice Select Committee's enquiry into the ageing prison population

Submitted October 2019

About Clinks

Clinks is the national infrastructure organisation supporting voluntary sector organisations working in the criminal justice system (CJS). Our aim is to ensure the sector and those with whom it works are informed and engaged in order to transform the lives of people in the CJS and their communities. We do this by providing specialist information and support, with a particular focus on smaller voluntary sector organisations, to inform them about changes in policy and commissioning, to help them build effective partnerships and provide innovative services that respond directly to the needs of their users.

We are a membership organisation with over 500 members, including the voluntary sector's largest providers as well as its smallest. Our wider national network reaches 4,000 voluntary sector contacts. Overall, through our weekly e-bulletin Light Lunch and our social media activity, we have a network of over 15,000 contacts. These include individuals and agencies with an interest in the CJS and the role of the voluntary sector in rehabilitation and resettlement.

RECOOP promotes the care, resettlement and rehabilitation of older incarcerated and released individuals with convictions. RECOOP aspires to be the leader in the delivery of knowledge and expertise to older people who come in contact with the criminal justice system, supporters and the staff who work with them. We use the views of the people we work with to influence and direct the services that should be delivered.

About this response

Clinks and RECOOP welcome the opportunity to jointly respond to this consultation and have answered the questions of most relevance to our work. To inform our submission we have engaged with older people who have lived experience of the CJS, and refer to Clinks' recent report *Flexibility is vital*[1] and RECOOP's *Good practice guide to working with older prisoners*[2] and *Approved Premises: good practice guide*.[3]

Although there remains no accepted definition of what age constitutes an 'older' person in prison, our response focuses on the needs of those aged 50 and over, in recognition of the accelerated aging many people in prison experience which means, as recognised by the Justice Select Committee in their previous inquiry,[4] that older people in prison often present physical health needs 10 years earlier than people who are not incarcerated.

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Supporting the voluntary sector working in the criminal justice system
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Summary of recommendations

- We recommend that a review of the transportation and escorting services for older individuals is undertaken.
- We recommend each prison should develop and implement a plan to ensure the prison regime is responsive to and meets the needs of older people in their establishments using RECOOP's good practice guide to working with older prisoners and the HMPPS *Model for Operational Delivery* as a guide.
- HMPPS should explicitly recognise the role of the voluntary sector in meeting the needs of older people and this should be reflected in commissioning strategies and guidance for prisons and probation.
- We recommend prison governors consider creating designated units for older people where there are particularly high numbers in an institution and/or where their health vulnerabilities warrant this. Where not possible, wings or landings for older people should be established that are located near to healthcare.
- We recommend new build prisons consider replicating community hostel provision in designated older units to promote independence. Suitable accommodation should be Disability Discrimination Act (DDA) compliant, include shared utilities and cooking facilities. Cells with wider doors, grab rails, non-slip surfaces including dementia friendly colour coding marking and good lighting should be available throughout.
- We recommend the accommodation strategy currently being developed by HMPPS makes specific reference to meeting the accommodation needs of older prisoners.
- We recommend Approved Premises proactively work to implement the key elements of RECOOPs good practice guide for working with older people.
- We recommend that the implementation of the National Partnership Agreement between the Ministry of Justice (MoJ), HMPPS, Public Health England (PHE), the Department of Health and Social Care and NHS England is based on learning from RECOOPs Buddy Support Worker Scheme to ensure improvements are made consistently across the prison estate.
- We support the recommendation made by HM Inspectorate of Prisons and the Care Quality Commission that in line with existing policy, any prisoner providing social care support to another prisoner should be appropriately selected, trained and supervised.
- We recommend the publication of regular, reliable data to encourage transparency and to enable the monitoring of progress against the commitment in the National Partnership Agreement to improve the health and care outcomes of older prisoners.
- HMPPS should work with the Health and Justice Data, Intelligence and Evidence Group to ensure that information about the needs of older people is used to drive improvements in health and wellbeing outcomes for this group.
- We recommend that all people required to attend the Sex Offender Treatment Programme, 'Horizon' are able to access the programme in the institution where they are serving their sentence.
- The Secretary of State for Justice should provide strategic leadership that recognises and meets the specific needs of older people and to address the combination of factors that result in systemic ageism within the criminal justice system.
- The development of a national strategy for the treatment of older people needs to be based on the guidance included in HMPPS *Model for Operational Delivery* for older prisoners and extended to include people serving their sentence in the community.
- HMPPS should require prison governors to have a local strategy for meeting the needs of older offenders, informed by the HMPPS Model of Operational Delivery for Older Offenders and which includes joint working arrangements with local authorities, health agencies and the voluntary sector.

- We recommend that voluntary sector organisations and people with lived experience are involved in the development of the national strategy for older people in contact with the criminal justice system.
- We recommend the development of a detailed implementation plan overseen by an advisory group, which will include membership of voluntary organisations and people with lived experience of the CJS.

Question 1: What are the characteristics of older prisoners, what types of offences are they in prison for and how is this demographic likely to change in the future?

Older people are the fastest growing age group in the prison population. There are triple the number of people aged 60 and over in prison than there were 16 years ago, and one in six people in prison (16%) are aged 50 and over.

The number of people aged over 50 in prison is projected to rise by 3% by 2022 and the number of people aged over 70 is projected to increase by 19%.[5]

The most common offence for older men in prison, including in historic cases, are sexual offences. 45% of men imprisoned aged over 50 have been convicted of sexual offences, with the next highest offence category being violence against the person (23%) followed by drug offences (9%).[6] The nature of the offending profile of older people significantly increases the challenge of meeting their needs.

Question 2: What challenges do older prisoners face, what services do they need and are there barriers to them accessing these?

Question 4: How do older prisoners interact with the prison regime and what purposeful activity is available to them?

On transfer to prison and between prisons, many older people can be in vehicles for extended periods of time, and experience conditions that are detrimental to their health. For example, people with hip conditions have been transported in vehicles where they have been unable to stretch out their legs, causing them considerable pain and distress before they have even reached prison.

We recommend a review of the transportation and escorting services for older individuals is undertaken.

Prisoners who are older when they are first incarcerated often find it more difficult to adapt to living in a prison environment, as ageing has a profound impact on their ability to embrace change and adapt to new surroundings. Cognitive impairment can also make absorbing new information challenging and lead to increased levels of anxiety when faced with 'entry-shock' or movement between prisons.

As highlighted by HMPPS' *Model for Operational Delivery*,[7] older prisoners are more likely to have higher rates of disability and mobility difficulties, making it challenging for them to physically access activities and services. This is further exacerbated by the physical infrastructure of our ageing prison estate; many prisons are not accessible for wheelchairs, lack grab rails and have poor lighting. This can create social isolation and leaves older prisoners vulnerable to bullying.

The prison regime is often not designed with the needs of older people in mind and can act as a barrier for them to access services or take part in activities. In one prison for example, older people had to choose between collecting medication at lunchtime, or going to the servery to collect lunch, they didn't have time to do both.

Many older prisoners do not work or attend education and are therefore restricted to their cells more than their younger counterparts. Work opportunities appropriate for older people, including that considered 'light work' or part-time opportunities are not consistently available across the estate.

Social isolation is also exacerbated by a lack of or limited number of visits as older family and friends find it difficult to travel long distances; and a disproportionate number of older offenders do not have contact with their families because of the nature of their offences. This also creates issues upon release, as many will resettle in towns and cities where they have no social connections.

RECOOP have developed a good practice guide, commissioned by HMPPS to support Prison Governors to consider how to consider ways the prison regime can be tailored to meet the needs of older prisoners, taking into account their distinct needs.[8] HMPPS' *Model for Operational Delivery* for older people is also a welcome resource for Prison Governors to support them to design the prison day to meet the needs of older prisoners. However, use of this guidance and the implementation of change has been slow and inconsistent across the prison estate.

We recommend each prison should develop and implement a plan to ensure the prison regime is responsive to and meets the needs of older people in their establishments using RECOOP's good practice guide to working with older prisoners and the HMPPS *Model for Operational Delivery* as a guide.

Tailored, age appropriate services

As outlined in Clinks' report *Flexibility is vital*,[9] the needs of older people have two distinct characteristics: they are multi-faceted, crossing the boundaries of health, social care and criminal justice; and are always changing, through the continuous process of ageing and in moving through the stages of sentence and resettlement.

The needs of this group cannot be met without services provided by voluntary sector organisations, whose distinctive characteristic is their flexibility. They are able to provide responsive, tailored services to older people that are age appropriate and person centred.

HMPPS should explicitly recognise the role of the voluntary sector in meeting the needs of older people and this should be reflected in commissioning strategies and guidance for prisons and probation.

Question 3: Is the design of accommodation for older prisoners appropriate and what could be done to improve this?

There is a lack of appropriate accommodation for older prisoners across the prison estate. Some prisons, especially older Victorian prisons, have no disabled access to the main part of the prison and on induction some older prisoners are allocated to accommodation on higher landings that are only accessible by stairs that they find challenging to negotiate. It can take considerable time for a ground floor cell to become available.

We recommend prison governors consider creating designated units for older people where there are particularly high numbers in an institution and/or where their health vulnerabilities warrant this. Where not possible, wings or landings for older people should be established that are located near to healthcare.

We recommend new build prisons consider replicating community hostel provision in designated older units to promote independence. Suitable accommodation should be Disability Discrimination Act (DDA) compliant, include shared utilities and cooking facilities. Cells with wider doors, grab rails, non-slip surfaces including dementia friendly colour coding marking and good lighting should be available throughout.

A lack of appropriate accommodation in the community is leading to bed blocking and in some cases delaying release, having a detrimental impact on people's resettlement.

We recommend the accommodation strategy currently being developed by HMPPS makes specific reference to meeting the accommodation needs of older prisoners.

Due to the nature of their offence, many older people leaving prison are required to live in Approved Premises on release. As highlighted by RECOOP, these referrals are rising and some Approved Premises are struggling to respond to the unique needs of this cohort.[10]

We recommend Approved Premises proactively work to implement the key elements of RECOOPs good practice guide for working with older people.

Question 5: Does the provision of both health and social care, including mental health, meet the needs of older prisoners and how can services be made more effective?

Although in principle, the quality and provision of health and social care in prisons should be comparable to that provided in the community, official reports make it clear that this is rarely the case. HM Inspectorate of Prisons and the Care Quality Commission's thematic report in 2018 into social care in prisons[11] found a "wide variation in the delivery of social care packages" which they described as "in effect a postcode lottery where prisoners could receive a poor, satisfactory or very good service dependent on which prison they were sent to."

One of the principal barriers for older prisoners accessing appropriate health and social care is that healthcare has been designed to be reactive, with an expectation that prisoners take the lead in making an application to see a health service provider to address a specific concern. This model does not work well for older prisoners who may be isolated and reluctant to display vulnerability over health issues related to ageing. This reluctance may be exacerbated by lack of mobility, the onset of dementia or mental health problems such as depression.

Delays in the identification of need can also occur when people are recalled back to custody as in some cases they are unable to take a copy of their community care plan with them. This can also lead to some being inappropriately located on main wings, rather than on specialist social care units, or on healthcare if their care needs were severe.

Older prisoners are more likely to need treatment at mainstream NHS hospitals and despite the low risk of older prisoners absconding, prison regulations require two officers to escort the prisoner to appointments outside the prison. Frequently, there are insufficient staff to escort older people to their appointments, which can lead to delays to critical healthcare provision with serious life-shortening consequences.

Frequent hospital visits for acute conditions are resulting in the cancellations of routine appointments, as there aren't the resources to manage the growing demand. This is increasing the deterioration in health of those with ailments and eliminating the chance of early diagnoses. These delays can often have a detrimental impact on someone's mental health, causing stress, worry and frustration.

Not all prison healthcare facilities are set up to cope with the full range of common problems experienced by older prisoners; in particular appropriate pain management systems that people suffering from cancer and other chronic diseases are likely to need. In some cases this is leading to prisoners who are due to be transferred to category D prisons failing to disclose their health needs, as they are concerned that their transfer won't be processed if the lower category prison does not have the healthcare facilities to meet their needs.

RECOOP, alongside Devon County Council, have developed a "Buddy Support Worker scheme" that has been rolled out across three prisons. This is a formalised programme where Buddies are required to undertake a two-week training package. Buddies provide non intimate support, promoting independence and empowering recipients to take control of their own well-being and health. RECOOP provides ongoing mentoring and management support to oversee the Buddies' work.

The National Partnership Agreement between the MoJ, HMPPS, PHE, the Department of Health and Social Care and NHS England commits those organisations to "Improvements to health and social care outcomes for older people and those with serious illnesses (prevention, diagnosis, treatment and palliative care) and end-of-life care."

In line with this commitment, we recommend that implementation of the agreement is based on learning from RECOOPs Buddy Support Worker Scheme to ensure improvements are made consistently across the prison estate.

We support the recommendation made by HM Inspectorate of Prisons and the Care Quality Commission that in line with existing policy, any prisoner providing social care support to another prisoner should be appropriately selected, trained and supervised.[12]

We recommend the publication of regular, reliable data to enable the monitoring of progress against the commitment in the National Partnership agreement to improve the health and care outcomes of older prisoners.

As well as being unable to respond to the current health care needs of older people in prison, HM Inspectorate of Prisons and the Care Quality Commission outline that due to lack of strategic planning, "developments in social care in prisons are only related to current need. We are not convinced that there is adequate consideration of what will be required in the very near future, such as the obvious needs that will flow from the projected growth in the older prisoner population." As such, it is unlikely that prisons will be able to respond to future health care needs of the older prison population.

RECOOP have seen increasing numbers of people living with dementia both coming into prison and developing the disease whilst incarcerated. Due to a lack of training for prison officers they can misinterpret behavioural manifestations of dementia, such as forgetfulness as noncompliance. In some cases this can lead to people losing their privileges under the Incentives and Earned Privileges scheme.

In the absence of a national recognised prison screening tool for dementia we recommend the development and implementation of a set of dementia friendly prison standards to be rolled out across the prison estate.

We reiterate Clinks' recommendation that HMPPS should work with the Health and Justice Data, Intelligence and Evidence Group to ensure that information about the needs of older people is used to drive improvements in health and wellbeing outcomes for this group.

We reiterate Clinks' recommendation that HMPPS should require prison governors to have a local strategy for meeting the needs of older offenders, informed by the HMPPS Model of Operational Delivery for Older Offenders and which includes joint working arrangements with local authorities, health agencies and the voluntary sector.

Question 7: Are the arrangements for the resettlement of older prisoners effective?

As outlined by HMPPS, 'release and resettlement processes can cause particular anxiety for older prisoners' which can be especially acute for those who have specific health needs, such as dementia and those who have served long term sentences, who are likely to have experienced institutionalisation.[13] It is therefore essential that older people are able to access Release on Temporary Licence (ROTL) to support their resettlement.

As significant proportion of this cohort are in prison for sexual offences and are typically required to attend a Sex Offender Treatment Programme called 'Horizon' before they can be considered for release. However, many older prisoners are in institutions where there is little or no access to the Sex Offender Treatment Programme, with the consequence that they cannot be realistically considered for release on parole through no fault of their own.

We recommend that all people required to attend the Sex Offender Treatment Programme, 'Horizon' are able to access the programme in the institution where they are serving their sentence.

As is well documented, the Transforming Rehabilitation programme to probation services have resulted in poor resettlement support in many areas across England and Wales. Indeed, a thematic report[14] into Through the Gate resettlement services for prisoners serving 12 months or more concluded that "If Through the Gate services were removed tomorrow, in our view the impact on the resettlement of prisoners would be negligible."

The report found that more than one in seven prisoners were released not knowing where they would sleep that night, and only two prisoners found accommodation via Through the Gate services. Indeed, RECOOP have bought sleeping bags and tents for both men and women in the last year as they were released from prison with no fixed abode. The report also demonstrates that no prisoners were helped to enter education, training or employment on release.

MoJ continue to develop their plans for the future probation model following the review announced in May 2019. The current intention is for the new resettlement model to consist of two parts: offender management in the community undertaken by the Responsible Officer; and services accessed and made available on or before release from prison. This removes Through the Gate as a separate function, making resettlement tasks – including pre-release assessment and sentence planning – the responsibility of the Responsible Officer. The Responsible Officer will undertake in-reach into prisons to provide pre-release support and to assess needs in order to support the commissioning of appropriate services either in prison before release, from the gate or after release in the community.[15]

The blueprint published in May 2019 sets out that consideration of the impact of changes for people protected under the Equality Act (2010) including those who are older prisoners, has been an ongoing exercise throughout the development of plans for the new probation model. There has been a dedicated work stream aiming to understand the implications of the proposals on people with protected characteristics and place support for vulnerable groups at the centre of the proposals. However, the detail for achieving this is still vague and there has been little specific reference to how the future model with meet the needs of older people. It is essential that as this work moves forward there is a specific focus on working to address the resettlement needs of older prisoners.

Question 9: Whether a national strategy for the treatment of older prisoners should be established; and if so what it should contain?

A national strategy for the treatment of older prisoners is essential for the prioritisation of the needs of this group and to ensure improvements in their treatment are driven across the prison estate.

We reiterate our previous recommendation in *Flexibility is vital* that the Secretary of State for Justice should provide strategic leadership that recognises and meets the specific needs of older people and to address the combination of factors that result in systemic ageism within the criminal justice system.

The development of HMPPS' *Model for Operational Delivery* for older prisoners is a positive step towards the development of a national strategy for older people in contact with the CJS. However, despite this leadership demonstrated by HMPPS, RECOOP have seen little evidence of prisons making substantial progress in implementing the model.

We recommend the development of a national strategy for the treatment of older people needs to be based on the guidance included in HMPPS *Model for Operational Delivery* for older prisoners and extended to include people serving their sentence in the community.

As a minimum a national strategy should include the following:

- A clear statement outlining the roles and responsibilities of each local and national partner responsible for the care of older people in contact with the CJS, especially in relation to those providing resettlement support as people transition back to the community.
- The development of a national training scheme for working with older prisoners with an explicit requirement about the number and grades of staff to complete this training in every establishment. Consideration of the development of a specialist 'Older' Governor/Officer role in each prison.
- The introduction of performance management targets, including those relating to the proportion of routine hospital appointments attended by older prisoners within a specific time frame.
- A set of standards to ensure the provision of equitable health care for older people in prisons and the community including a specific focus on end of life care and the availability of pain management in prisons.
- Expectations relating to the provision of services in prisons including purposeful activity, education and employment opportunities. For those in retirement the national strategy should include guidance on the rate of retirement pay.
- As specific focus on older people in 'transition' either between establishments or on release from prison.
- The introduction of clear and robust data collecting and management systems to ensure the number and needs of older people in contact with the CJS can be monitored, as well as success against the implementation of the strategy.

The national strategy needs to act as an overarching guide for local areas to adapt to reflect the specific needs in their areas.

We therefore reiterate our previous recommendation that HMPPS should require prison governors to have a local strategy for meeting the needs of older offenders, informed by the HMPPS Model of Operational Delivery for Older Offenders, and any national strategy developed in the future should include joint working arrangements with local authorities, health agencies and the voluntary sector.

We recommend that voluntary sector organisations and people with lived experience are involved in the development of the national strategy for older people in contact with the criminal justice system.

To ensure the strategy is implemented fully we recommend the development of a detailed implementation plan overseen by an advisory group, which will include membership of voluntary organisations and people with lived experience of the CJS.

End notes

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CLINKS

Clinks supports, represents and advocates for the voluntary sector in criminal justice, enabling it to provide the best possible opportunities for individuals and their families.

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