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Forensic Network Board Chair and Chief Executive

28 May 2024

Dear Colleagues,

INDEPENDENT REVIEW INTO THE DELIVERY OF FORENSIC MENTAL HEALTH SERVICES - UPDATE ON IMPROVING STRATEGIC PLANNING AND GOVERNANCE – RECOMMENDATION ONE

I am writing to update you about plans to improve strategic planning and governance of Forensic Mental Health Services and my thoughts on the next steps of implementing Recommendation One of the Independent review into the delivery of forensic mental health services “The Review”. The Review recommended that a new NHS Health Board should be created for forensic services across Scotland.

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, given the resources that would be required.

As you may know, the SLWG undertook an options appraisal exercise which produced no clear preference between Barron’s recommendation, that a NHS Forensic Board be established; and the two alternatives. Overall, the outcome of the Options Appraisal Process suggests that continuing the status quo (individual Health Boards and Network) for the strategic planning and governance of forensic mental health services in Scotland was not supported. A copy of this report can be found on the Scottish Government [website](#).

I have discussed the outputs of the SLWG with officials and have been exploring these complex discussions actively to agree next steps. I have also been considering the output of the SLWG in the context of recent governance developments in Health and Social Care, including the creation of the NCS and the NHS Scotland Planning

and Delivery Board. I have now taken a view on the desired way to move forward and I wanted formally set this proposal out with you.

Forensic Mental Health Board for Scotland

I have asked my officials to begin putting in place plans to establish a “**Forensic Mental Health Board for Scotland**” with the aim of delivering a national approach to planning and governance of forensic mental health services, which is in line with our population needs based approach to planning of our acute services. This Board will be created by utilising existing legislation and functions of The State Hospital Board for Scotland. **Annex A** to this letter provides a Q&A document that I hope provides you with some reassurances on the way forward.

Given the complexity of developing a more coherent governance model, there are still a number of options and details 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.

This group will advise on the operational, legal and practical changes needed to transition from existing governance arrangements to a Board with responsibilities for forensic mental health services beyond The State Hospital. The group will set out an implementation plan for the transition to the new Board.

I would like to take this opportunity to thank you for your patience during this scoping period and give you the chance to express any initial thoughts or seek additional information by emailing the Forensic Reform team at forensicmentalhealthreformteam@gov.scot.

Yours sincerely,

A handwritten signature in grey ink, appearing to read 'Maree Todd'.

Maree Todd MSP

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 South 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.

Tha Ministearan na h-Alba, an luchd-comhairleachaidh sònraichte agus an Rùnaire Maireannach fo chumhachan Achd Coiteachaidh (Alba) 2016. Faicibh www.lobbying.scot

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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 has been very challenging over recent years 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 commitments had been previously

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made, but 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, without additional new resources 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.

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