

**Lord Toby Harris**

Chair, Independent Advisory Panel on Deaths in Custody

18 July 2014

Dear Toby,

**Independent Review into Self-Inflicted Deaths in NOMS custody of 18-24 year olds**

The Office of the Children's Commissioner welcomes the opportunity to respond to this independent and timely review. We believe that its remit should have been extended to the deaths of children and young people in youth justice custody in addition to young adults. While there are differences between the two cohorts and the respective legal frameworks applicable to each, many of their vulnerabilities and risks are the same and there will be lessons to be learned from their deaths applicable to both age groups. I therefore welcome your call for submissions on the youth justice system in addition to the young adult estate.

The Office of the Children's Commissioner's remit is to promote and protect the rights of children in England, and where government functions are not devolved, in other parts of the United Kingdom. In the case of the youth justice system this extends to both England and Wales. 'Children' is defined in the Children Act 2004 to include young adults aged 18-24 in two groups: care leavers; and those with a learning disability or Education, Health and Care plan. Both groups are overrepresented in the prison population. The Children's Commissioner or persons authorised by her may enter any place where a child or relevant young adult is accommodated or cared for other than a private home; in the exercise of this power OCC carries out regular visits to the youth justice secure estate and other settings where children are detained, and for this reason is designated as one of the members of the UK's National Preventive Mechanism, charged under the Optional Protocol to the UN Convention Against Torture with monitoring and helping to prevent the torture and inhuman, cruel or degrading treatment or punishment of people in detention. OCC is also represented on the Ministerial Board on Deaths in Custody.

As the main focus of our work in this area has been on children in the youth justice secure estate, we do not attempt to answer each of the questions in the Call for Submissions in relation to the young adult age group. However, we do attach to this letter as relevant to the Review's considerations the OCC reports *I think I must have been born bad: emotional wellbeing and mental health of children and young people in the youth justice system* (June

2011) and *Nobody made the connection: the prevalence of neurodisability in young people who offend* (October 2012).

In relation to young people with neurodisability, our 2012 report identified that research studies suggest a prevalence of between 23-32% of generalised learning disability for children in custody, as opposed to 2-4% in the general population. Other neurodisabilities show high levels of disproportionality, in particular prior experience of traumatic brain injury which can result in impaired empathy. *Nobody makes the connection* makes a series of recommendations for the youth justice system and other agencies to allow early identification of underlying neurodisability and appropriate interventions. Many of these recommendations will also be beneficial in the case of young adult offenders where an underlying neurodisability has not been identified in childhood. In addition, we would welcome consideration of how the Comprehensive Health Assessment Tool can be applied to young adults in the criminal justice system. In relation to information sharing, we have found evidence in our work on youth justice custody of failure to share relevant information between healthcare and custodial staff in the same setting, which could be relevant to self-harm and suicide prevention.

We have particular concerns regarding transition from the youth justice secure estate to the adult/young adult estate, and have encountered young people on our visits to youth justice custody who are extremely anxious about pending transitions. Those young people who have been identified as particularly vulnerable and are accommodated in secure children's homes or in specialist units such as the Keppel Unit will find no comparable accommodation in the adult/young adult estate and, we understand, are likely to encounter a much more restrictive regime there due to tighter resourcing and staffing levels. The extreme vulnerability of these young people is we consider, exemplified by the death of a 19 year old man at HMYOI Aylesbury in March 2011 (<http://www.ppo.gov.uk/docs/208-11-Death-of-a-male-prisoner.pdf>). We would welcome consideration by the review of what specialist provision should be made for these young people – including young women, for whom there is no specific young adult provision.

Regime restrictions amounting – or nearly amounting – to solitary confinement, whether because of segregation, IEP level or because of low staffing levels are of particular concern to us. Solitary confinement should never be used for children or for mentally disordered offenders, as the UN Special Rapporteur on Torture made clear in 2011. We are particularly concerned that behaviours arising from mental health problems, neurodisability and prior trauma may be responded to merely as behavioural infractions and that isolation practices – loss of association, reduction of IEP levels, and segregation – may result. We would welcome consideration of the impact of these practices and alternative interventions by the review.

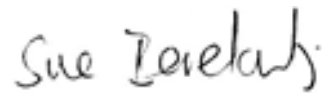
Finally, we continue to be concerned by the overrepresentation of former looked after children in the prison population; in our visits to the youth justice secure estate we regularly meet children and young people with complex care histories, multiple placements and prior experience of abuse. We would welcome consideration by the review of how the specific needs of this group should be met in the adult/young adult estate.

Children's Commissioner for England: Dr Maggie Atkinson Office of the Children's Commissioner  
Sanctuary Buildings | 20 Great Smith Street | London | SW1P 3B

T: 020 7783 8330 E: [info.request@childrenscommissioner.gsi.gov.uk](mailto:info.request@childrenscommissioner.gsi.gov.uk) W [www.childrenscommissioner.gov.uk](http://www.childrenscommissioner.gov.uk)  
Advice, Assistance and Representation: T 0800 528 0731 E: [advice@childrenscommissioner.gsi.gov.uk](mailto:advice@childrenscommissioner.gsi.gov.uk)

Please do let me know if you have any queries or would like to discuss any of these issues further.

Yours sincerely,

A handwritten signature in black ink that reads "Sue Berelowitz". The signature is written in a cursive, slightly slanted style.

**Sue Berelowitz**  
**Deputy Children's Commissioner and Chief Executive**  
Office of the Children's Commissioner for England

Children's Commissioner for England: [Dr Maggie Atkinson](#) [Office of the Children's Commissioner](#)  
Sanctuary Buildings | 20 Great Smith Street | London | SW1P 3B

**T:** 020 7783 8330 **E:** [info.request@childrenscommissioner.gsi.gov.uk](mailto:info.request@childrenscommissioner.gsi.gov.uk) **W** [www.childrenscommissioner.gov.uk](http://www.childrenscommissioner.gov.uk)  
**Advice, Assistance and Representation:** **T** 0800 528 0731 **E:** [advice@childrenscommissioner.gsi.gov.uk](mailto:advice@childrenscommissioner.gsi.gov.uk)