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Dear Matt

Thank you for your emails and the opportunity to respond to both the transcript of the MOPAC/MPS meeting and Drs Payne James and Green's further submission.

Her Majesty's Inspectorate of Prisons and Her Majesty's Inspectorate of Constabulary have been working collaboratively for the past five and a half years, undertaking unannounced inspections of police custody across England and Wales. This is in response to the UK international obligations to establish a system of regular visits undertaken by independent international and national bodies to places where people are deprived of their liberty, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment. This is a requirement under Article 1 of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, known as OPCAT. Inspections of police custody look not only at the implementation of statutory requirements but also at the conditions and treatment and outcomes for detainees. All our work, including our inspection criteria ['Expectations'] and our reports are in the public domain and can be found on both our websites.

Looking firstly at the transcript of the recent meeting, there are a number of inaccuracies. Dr Payne James states that HMIP/C staff do not look at medical notes. He comments that they are private, contemporaneous notes. He furthermore states that it would not be appropriate for HMIC/HMIP to see confidential medical records of detainees who have been seen in custody without the consent of that detainee. Commander Hanstock also stated that HMIP/C inspectors do not look at clinical records.
There is provision in the Data Protection Act [DPA] for HMIP/C inspectors to look at clinical records without individual consent, expressly for the purpose of inspection, as it is deemed to be in the public interest and relevant to carry out our statutory functions. HMIP/C health inspectors are all registered clinicians, who have a duty of

care, and are fully aware of both the DPA and Caldicott guidelines, it is only they that look at clinicians records, as opposed to the medical record within the custody record, which, in any case is viewed by police staff.

HMIP/C Expectations state that all clinical records should include the detainee's signature to determine consent for the sharing of information, a record of detainee's ethnicity, the problems experienced, the diagnosis, treatment, plan of care and referral letters and that that all records are kept confidentially, in line with Caldicott guidelines.

In inspections of police custody both in the MPS and elsewhere, we are unable to be assured that Forensic Medical Examiners [FME's] contemporaneous notes meet these requirements, precisely because they take them away from the suites. Neither can we be assured that the notes are held confidentially. We welcome the intention of the MPS to have all clinical records held electronically in order to improve confidentiality and meet best practice.

Furthermore, Dr Payne James states that he is not aware of HMIP/C being able to comment on the nature of the assessment and the care. However, as I have stated above all health inspectors are registered clinicians. With a detainee's permission they sit in on clinical consultations as well as reviewing clinical records and custody records, precisely to make a judgment on the appropriateness of clinical assessments, interventions and care.

Dr Green refers to the Memorandum of Understanding [MoU] between the Faculty of Forensic and Legal Medicine [FFLM] and HMIP. There are several inaccuracies in what he says. Firstly, the MoU is tripartite – it also includes HMIC. Secondly, he states that the purpose of the MoU is to 'try to get FMEs with experience and expertise involved in the inspection so that they can make the qualitative healthcare assessments'. This is wrong and would be a conflict of interest if it were to occur. Both HMIP and HMIC are <u>independent</u> bodies and as such our inspectors do not work in the area that they are inspecting. The actual stated intention of the MoU is to provide a framework to assist the joint working of the three organisations [FFLM/HMIC/HMIP] to ensure maximum efficiency and effectiveness. It outlines the basis of co-operation and collaboration between the organisations, designed to ensure that the relationship is effective and that together we meet our aims and objectives, particularly where there are mutual interests or responsibilities.

Dr Green goes on to say that HMIP/C do not have the competency and capacity to check and uphold standards of care in custody. We reject this comment on the basis that it is wholly inaccurate.
In further evidence that Drs Green and Payne-James have supplied you with they make several comments both about the HMIP/C Expectations document and about our reports. You may be interested to know that a member of the FFLM is a member of the HMIP/C police inspection stakeholder group, who provide advice and comment about the Expectations document. The document is currently being revised in light of recent changes to PACE and to ensure that it is contemporary; the stakeholder group will be consulted about the changes.

I trust that you will ensure that the committee is updated with the information I have provided.

Yours truly,

Elizabeth Tysoe MA RGN
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