

Ms Patricia Harding
The Coroner's Office
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By email: Laura.Hollick@kent.gov.uk

25 February 2015

Dear Ms Harding

Regulation 28 Report to Prevent Future Deaths following the inquest of Alex Kelly who died in the care of HMYOI Cookham Wood on 25 January 2012.

1. I am writing to you in response to the concerns raised by your investigation into the circumstances surrounding the tragic and untimely death of Alex Kelly.
2. In offering this response I recognise that the Regulation 28: Prevention of Future Deaths Report was not directed at the Youth Justice Board (YJB). We take our responsibility to act on the learning from serious incidents within the youth justice system very seriously and I offer you this response to outline where the YJB is able to use its role to support and influence some of the changes you seek from custody providers and others across the youth justice system. Our response builds upon the information previously provided to you and explains the actions that the YJB has taken or intends to take in order to address some of the thematic concerns identified in your report, including:
 - Mental health provision
 - Effective information sharing to safeguard children and young people in custody;
 - YOT placement recommendations and how the information is managed by the YJB;
 - Awareness of the transfer process;
 - The need for a holistic and multi-agency approach to managing a young person's risk;
 - The role of the Youth Offending Team (YOT) when a young person is placed in custody;
 - Planned changes to temporary release; and
 - The role of Local Authority social workers, as corporate parents, when a young person is placed in custody.

3. The YJB's responsibilities

- 3.1. The YJB is responsible for overseeing the youth justice system; this includes Youth Offending Teams (YOTs) and youth custody providers, though not for directly delivering the services they provide. Multi agency YOTs are accountable to the local authority within which they are situated. The YJB has a statutory duty to oversee the youth justice system and to identify and share good practice to assist the delivery of youth justice by front line practitioners. To achieve this, the YJB has a direct relationship with YOTs and

undertakes a role in monitoring performance, supporting practice and advising Ministers in this regard.

- 3.2. The YJB's role as a commissioner of the youth justice secure estate requires it to purchase distinct secure accommodation for those aged under 18 who are sentenced or remanded to custody. The National Offender Management Service (NOMS) is the lead provider of public sector YOIs and it operates all public sector under 18 YOIs. It has responsibility for delivering services and making improvements in line with what the YJB commissions.
- 3.3. Currently (and since 2012) the way in which the YJB monitors the services it commissions for under 18 YOIs has been through a system called the Performance Management Framework (PMF). The PMF is a joint product created by the YJB and NOMS and includes Service Assurance Modules (SAMs) which are a set of tools that the YJB and staff from NOMS Young People's Estate use to evidence performance and compliance in a number of key risk areas. There are specific SAMs covering child protection, the prevention of harm and violence and case management. These enable us to gather and consider a full picture of an establishment's performance, using our own assessments alongside the inspection findings of Her Majesty's Inspectorate of Prisons, Independent Monitoring Boards, Ofsted and others.

4. Transforming Youth Custody

- 4.1. The YJB's role as a purchaser of secure accommodation for under 18s and the Government's Transforming Youth Custody (TYC) programme has presented a significant opportunity for reforming the provision within under 18 YOIs and responding to the findings of investigations such as yours to challenge how to more effectively deliver and support the needs of children and young people in custody. Within the TYC programme a YOI Reform project has led the YJB to develop an enhanced specification, which incorporates lessons learnt from deaths in custody and outlines our expectations for custodial provision in YOIs.
- 4.2. This enhanced specification was issued to NOMS in February 2014 and their response has recently been received and considered. As this programme of YOI reform begins to move forward integrated YJB/NOMS teams are being put in place to more fully develop the offer to young people and shape the future of under 18 YOI provision.

5. Mental Health Provision

- 5.1. The provision of bespoke mental health interventions is the responsibility of local CAMHS providers. As such when YOTs do not have an 'in-house' mental health worker it is important that they have in place effective screening and referral processes. A number of tools to support YOTs in this function already exist - some of which were developed by the YJB. The tools provide an approach to screen for and assess the mental health needs of children and young people under the supervision of YOTs.
- 5.2. More recently, the YJB has introduced a Comprehensive Health Assessment Tool (CHAT). The CHAT is a validated, evidence-based screening tool, developed in partnership by the YJB and the Department of Health. It provides for the consistent and comprehensive identification and assessment of the health and health-related needs of children and young people in contact with any part of the youth justice system (YJS). Its use is already mandatory in all under 18 secure establishments and the YJB encourages YOTs to adopt its use for children in the community as it has the potential to align assessments across custody and community and support continuity of treatment/care.

- 5.3. The YJB have contributed to the recent Children and Young People's Mental Health & Wellbeing Taskforce. We await the conclusions of the taskforce, which we understand will be published imminently, and look forward to working with the Department of Health and NHS England to ensure that children and young people in the youth justice system are supported to access appropriate and effective mental health services.
- 5.4. The YJB is also working in partnership with the Welsh Government to ensure that the mental health needs of young people both detained and those in the community are identified and addressed. In October 2014 we jointly published with the Welsh Government policy implementation guidance on '*addressing the mental health problems of young people in the youth justice system*'. This guidance sets out expectations for the governance, organisation and delivery of mental health services in Wales. Work is now currently underway to support local health boards and youth justice services to implement this guidance. Focused work is also currently being undertaken within the secure estate in Wales to assess the health needs of the population and the current levels of provision with a view to addressing service 'gaps' and barriers to equitable access to services.

6. Information sharing

- 6.1. Appropriately communicating and sharing information is recognised as a key factor in supporting the safety and wellbeing of children and young people in custody. If a young person is identified as at risk of self harm and/or suicide, or significant events occur which may impact on his/her risk, this heightens the need to ensure that there is effective communication. The YJB has in place a number of expectations which require that local processes are in place to manage this type of information sharing more effectively and further expectations have been included within the YOI reform specification.
- 6.2. For example, the YJB has clearly outlined that it expects that those at risk of suicide and self harm should be managed consistently, with a key individual being responsible for co-ordinating the information and appropriate interventions that contribute to managing the risks for that young person. Monitoring against current provision through the SAMs consider whether thought has been given to including external agencies, particularly the YOT, when managing such a young person. In the YOI reform specification, the YJB has also set out a clear expectation that, when YOIs move to delivering the enhanced operating requirements, establishments should develop processes to ensure that relevant and appropriate information about each young person is collated and shared within the establishment and with other agencies and stakeholders. For example, the service requirements expected for the 'casework model' includes specific reference to multi-agency meetings being called to co-ordinate a multi-agency approach to planning for and managing a young person risks to safety and wellbeing.
- 6.3. In order to facilitate information sharing the YJB has developed, and is currently rolling out, AssetPlus a new assessment and planning interventions framework that will replace the current Asset and its associated tools. AssetPlus has been designed to provide a holistic end-to-end assessment and intervention plan, allowing one assessment record to follow a child or young person throughout their time in the youth justice system, both during their time in the community and any period spent in custody. This should facilitate better information sharing, particularly between agencies once a young person has been sentenced or remanded to custody.
- 6.4. Once in custody, the YJB recognises the need for appropriate information sharing between those delivering healthcare in YOIs and prison officers, in order to effectively safeguard children and young people in custody. Whilst the YJB does not directly commission the health services available to children and young people in the justice system; we intend to share and discuss the concerns raised in your Regulation 28 report,

with regards to sharing information on the potential impact of non-compliance with medication, and access to appropriate health services with NHS England.

7. *Placements*

- 7.1. The YJB is responsible for placement decisions of all those under 18 who are sentenced or remanded to custody. We agree that ensuring the most appropriate placement for a young person's needs is vital and our placement decisions are based on a range of factors. Our Placement Officers will consider the current, rather than historic, assessment/presentation of the young person relayed to them via the YOT court officer through the telephone conversation and the post-court report and informed by the views of young people, professionals and families where appropriate.
- 7.2. We recognise that in Alex Kelly's case there were some inconsistencies in the YOT's placement recommendations. We want YOTs to be confident about the proposals they are putting forward and expect that there will be gate-keeping and quality assurance within YOTs before recommendations are made to us. We will work with YOTs to ensure that they have the tools and information to do this. We plan, for example, to publish further information on the difference between the types of secure establishments within the youth secure estate in order to support YOTs when making placement recommendations.
- 7.3. Since Alex Kelly's death we have made a number of changes to improve decision making and management oversight of initial placement decisions. This includes 100% of placement decisions now being subject to management checks within 24 hours of placement. This ensures that the YJB is making appropriate placement decisions based on the best interests of the child or young person concerned and that it is the safest placement option available based on any known risk factors. In addition, we have run sessions with Placement Officers to improve their record keeping skills and to raise awareness of the concerns raised about our placements process during investigations following serious incidents and deaths in custody.
- 7.4. Last year, the YJB undertook a major organisational restructure and we took the opportunity to merge our placements and safeguarding functions under one senior manager. We hope that this will further improve the quality of our decisions and practice for placing children into custody. To support our internal actions we have also invited independent scrutiny of our placements service as we recognise this will improve the quality of our work, and to that end Her Majesty's Inspectorate of Prisons have been asked to undertake a review of the placement decisions taken by the YJB. This inspection work is currently being piloted to inform how this may be taken forward and provide regular independent scrutiny of our decisions from 2015 onwards.

8. *Transfers*

- 8.1. Although it is sometimes appropriate and in the best interests of a child in custody, a transfer to a new establishment (especially during a short sentence) can be very disruptive and any decision to move a child needs to carefully consider a range of views, including those of the young person and their family/carers.
- 8.2. We have recently revised the process to make it easier to access and to encourage a multi-disciplinary approach to any decision to request a transfer. This approach intends to ensure that requests for transfer have taken account of all the information available about a young person and that those involved have collectively considered the most appropriate interventions to support him/her; encouraging all those responsible for the care and

welfare of a child or young person (including parents/carers) to be involved in the decision to request a transfer.

- 8.3. In order to increase awareness of the process we have issued communications to YOTs to remind them of their continued role in supporting a young person's safety and wellbeing and that they can ask for a placement review at any time. We have updated our web pages so that families and professionals can understand the process and the role that they can play in requesting a review of a placement. We have also communicated this with secure establishments so that they are aware. Following some feedback on how this has worked in practice we are currently in the process of further simplifying and streamlining the transfer process.
- 8.4. Alongside this work we would however stress, that we expect the under 18 YOI estate to be able to support young people, including those with complex needs, and provide them with a safe environment whilst in custody. We can not however ignore the reality that the significant fall in the numbers of young people entering custody has impacted on the size of the youth estate and we are conscious that the smaller secure estate provides fewer opportunities for transfers. Therefore we are also working with custody providers to ensure that they are able to meet the wide range of needs presented to them by children in their care.
- 8.5. Again, we recognise that action to improve the awareness of staff within YOIs and equip professionals with the relevant knowledge to understand how a young person may or may not be better supported at a different establishment could improve use of the transfer process. We will engage with NOMS to further consider how this element may be included within the specific training offered to those working in the youth estate.

9. Assessment, Care in Custody and Teamwork

- 9.1. We recognise and agree with the concerns you have raised regarding how young people at risk of self harm and suicide are currently supported by the Assessment Care in custody and Teamwork (ACCT) process. It is the YJB's expectation that any young person who is identified as at risk of self harm and/or suicide is properly supported and managed during their time in custody. We recognise that young people presenting these risks can display behaviour that harms not only themselves but also others. YOIs must seek to achieve the right balance between consistent behaviour management systems and protocols and the requirement to have individual care planning that can require deviation from these. The YOI reform specification includes reference to the establishment's responsibility to ensure that young people identified as at risk of self harm and/or suicide should receive consistent care and support which addresses their individual needs.
- 9.2. It also makes specific requirements of secure establishments to provide parents/carers and other appropriate bodies such as the YOT with regular information on the young person's progress throughout their period in custody, particularly when self harm and suicide risks are being managed.
- 9.3. You may be aware that as a result of investigations such as yours NOMS have recently undertaken an internal review to consider the applicability of the ACCT process for under 18s in NOMS establishments. As commissioners the YJB were members of the ACCT Review working group, providing support and challenge to the approach taken.
- 9.4. The information and learning we have available to us gives insight into how improvements can be made to provision. We consider that the YOI Reform programme, when delivered, will present a unique opportunity to translate the learning into action and have included

specific requirements to support this including the expectation of a suitably trained and consistent staff group for managing any young person at risk of self harm and/or suicide and a holistic approach to care to ensure that the ACCT process is integrated with the other parts of the regime minimising the risk of conflict between behaviour management and supporting vulnerabilities. As the YOI Reform programme progresses the YJB will continue to exercise its role as a commissioner to encourage and influence change in the management of self harm and suicide risks through the ACCT process.

10. Planned changes to temporary release

- 10.1. Although the issues raised in Alex Kelly's case were related to early release rather than temporary release, I felt that it would be appropriate to note the planned changes to temporary release for young people in custody. More sophisticated use of temporary release provisions to aid resettlement will be valuable when early release decisions are being made, and should result in clearer planning for young people so that they have clear expectations of what their return to the community will look like. We feel that this could have been beneficial for Alex.
- 10.2. The purpose of the changes to the eligibility criteria and application of temporary release is to improve resettlement outcomes. It will be available to most children, following a risk assessment, and we expect that the changes will come into effect later in 2015.
- 10.3. The decision making process for temporary release will require that both the Casework and YOT worker work collaboratively with the young person in the development and recommendation of temporary release opportunities. The Caseworker and YOT worker should consult with all staff involved with the young person, as well as their parents/carers when risk assessing the young person. This will ensure that the recommendation is subject to a multi-agency process and avoids the recommendation being based on a single person's assessment of the circumstances of that young person.

11. Looked after children (LAC)

- 11.1. It is a stark fact that less than 1% of all children are looked after at any one time, yet up to one half of all children held in YOIs are, or have previously been, looked after.¹ Local authorities retain their responsibilities to looked after children when they are in custody, and the YJB recognises that this can become more difficult when children are in custody some distance from their home local authority. Whilst there is still a lot to be done, the YJB is already working towards influencing practice and emphasising the role of social workers when a young person is sentenced or remanded to custody.
- 11.2. Since 2011 we have funded the employment of dedicated social workers in the YOIs we commission to support:
 - Looked after children and children in need in custody;
 - YOI Governors in meeting their statutory duties under section 11 of the Children Act 2004; and
 - Local Authorities meet their own responsibilities towards children in accordance with the Children Act 1989 and subsequent legislation.
- 11.3 The YJB also recognises the difficulties that arise when a looked after child (LAC) is placed out of area, and the additional challenges to agencies being able to effectively work across different geographical locations. In 2012, the YJB investigated the practice

¹ Department for Education (2011) Children looked after by local authorities in England year ending 31 March 2011.

issues experienced by YOTs in relation to LAC placed out of area. The resulting report was presented to the Department for Education (DfE) taskforce on LAC. In response to the findings, in 2014 the YJB published the 'National Protocol for Case Responsibility' which seeks, amongst other things, to provide guidance on the roles and responsibilities of the home and host YOT when a LAC placed out of area becomes involved in the youth justice system. The protocol emphasises that the welfare of the child should remain paramount throughout case management.

- 11.4 The YJB has an established relationship with the Chair of the Association of Independent Local Safeguarding Children's Board (LSCB) Chairs. The YJB has worked with this group to raise awareness among LSCBs and local authorities about the specific safeguarding issues associated with children in the youth justice system. We have issued advice to LSCBs about their duties towards children and young people placed in custody. This has been disseminated widely and has been published on the Association's website. In addition, we intend to write to the Association to highlight relevant learning from the nine investigations which have taken place into the three most recent deaths of young people in custody – Alex Kelly, Ryan Clark and Jake Hardy.
- 11.5 In addition, the YJB is engaging with the Association of Directors of Children's Services (ADCS), DfE and Ofsted to make a number of important changes that respond to the challenges of out of area placements, these include:
 - Tougher regulation of Local Authority and Private Children's Homes;
 - The requirement for sign-off by the Director of Children's Services for all out of area placements;
 - Regular risk assessments of the area in which children's homes are located; and
 - Firm and clear requirements about the transfer of information ahead of a placement out of the local authority area.
- 11.6. During this engagement the YJB has emphasised the need to consider the specific requirements of looked after children in the youth justice system in future developments; including consulting with YOTs where appropriate.
12. I hope that the information I have offered provides some assurances that the findings of your investigations and the areas you have highlighted for the prevention of future deaths have prompted action and been the focus of our continuing commitment to supporting the safety and well being of children through out the youth justice system.

Yours sincerely,



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