Written evidence submitted by The Independent Advisory Panel on Deaths in Custody (TDP0013)

1. The role of the Independent Advisory Panel on Deaths in Custody (IAPDC) is to advise Ministers and senior officials on how they can meet their human rights obligations to prevent deaths and protect the lives of people detained in state custody. We welcome the opportunity to submit evidence to the Justice Select Committee's (JSC) inquiry into tackling drugs in prison. Our evidence focuses on our sole purpose of preventing deaths in custody. Dr Jake Hard – IAPDC member and Associate Clinical Director for the South West Prisons, Oxleas NHS Foundation Trust – has been the lead contributor to this submission, drawing on over 18 years' clinical experience.
2. The scale of drug misuse in the criminal justice system is significant and both directly and indirectly leads to deaths in custody. It impacts those in custody and the staff who are asked to provide for their care. When individuals are released into the community, support is often not available or accessed. Successive governments have come under increased scrutiny over their ability to keep prisons drug-free and ensure they are places of rehabilitation. While some progress has been made in tackling the demand and supply of drugs in prison, the changing nature of the substance misuse landscape continues to present significant challenges. There has been a rise in the availability and use of new psychoactive substances across the prison estate. The rapid creation of these drugs has meant they are difficult to detect, control, and treat.
3. Far too many people are imprisoned for drug-related offences. Opportunities to divert offenders with pre-existing drug misuse issues away from custody and into treatment should be maximised. For those for whom imprisonment is necessary, treatment should begin at the start of their sentence and continue throughout their custody journey and in preparation for their release. Drug misuse should not be viewed in isolation but as part of wider health and social care and support needs. A whole-system approach is vital to addressing the causes of drug misuse and promoting effective treatment and recovery. Crucially, increased investment in research is needed to understand the effects of psychoactive substances, develop successful detection methods, and inform effective interventions – leading to better resourcing and treatment options.

Scale and impact

4. People in prison are substantially more likely to have used drugs, to use drugs regularly, and to experience drug-related problems than their peers in the community.[1] Individuals with drug misuse needs will often continue to seek substances – illicit as well as prescribed – once in prison, albeit their drug of choice may be less available. Statistics published in 2022 show that around half of all prisoners have a drug misuse need (53% for females and 49% for males).[2] Additionally, there were 14,724 drug seizures in prisons in 2022/23. However, the latter likely presents only a partial picture of the prevalence of drug use, particularly as some drugs are increasingly easy to conceal.[3]

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[1] European Monitoring Centre for Drugs and Drug Addiction, 'Prison and drugs in Europe: Current and future challenges', 25 June 2021, available here.

[2] MoJ, 'Identified needs of offenders in custody and the community from the Offender Assessment System, 30 June 2021', 1 June 2022, available here.

[3] UK Parliament, 'Prisons: Drug Seizures', 21 September 2023, available here.

5. Drug misuse contributes to premature mortality. Analysis by the Office for National Statistics (ONS) shows that 145 of the 2,714 deaths in prison from 2008 to 2019 were drug-related, equating to 5% of all identified deaths and 12 drug-related deaths per year over the 12-year period. The risk of male prisoners dying from drug-related causes was similar to the general male population between 2008 and 2015 but was higher between 2016 and 2019. This coincides with an increase in the number of deaths involving new psychoactive substances.[4]
6. However, this dataset is now over five years old and there remains a lack of clarity over the precise number of people who are dying from drug misuse in prison. The classification of deaths in HM Prison and Probation Service's (HMPPS) 'Safety in Custody' bulletins does not allow drug-related deaths to be readily identified. Instead, these deaths are assigned to one of the broad causes, depending on the evidence that was available at the time of death. For example, of the 145 drug-related deaths identified by the ONS, 68% were classified as 'other: non-natural' and 23% as 'self-inflicted' by HMPPS.[5] **The ONS and HMPPS should collaborate again on a review of drug-related deaths in prison to understand the current size of the problem.**
7. Further, the effect of drug strategies is well-documented to result in the incentive to create higher potency and smaller physical volumes of substances, with the prison environment attracting the use of new psychoactive substances which are highly potent and easy to conceal.[6] Synthetic opioids such as nitazenes and fentanyl are typically many times stronger than heroin and the lethal dose of these substances is much lower in comparison to other opioids. Synthetic cannabinoids are difficult to detect, unpredictable in their effect even within one 'batch', and unpredictable in their effect from one person to another. These concerns are occurring against the backdrop of a growing presence of synthetic substances in UK drug markets.[7]
8. As highlighted in the 2019 National Prison Drugs Strategy, prisons with the highest rates of positive tests are the least stable and *"debt resulting from the supply, distribution and use of drugs is also a significant cause of violence, intimidation and self-harm across the estate, endangering both staff and other prisoners"*.[8] Professor Dame Carol Black's 2020 independent review of drugs also made a connection between drug use and unrest and violence in prison.[9] Similarly, HM Inspectorate of Prisons' (HMIP) 2024 annual report pointed to the *"clear"* consequences of drug misuse, including threatening the stability of prisons and contributing to violence and deaths in custody.[10]
9. Additionally, research published in 2017 drew a link between new psychoactive substance use in prisons in England and increased self-harm and suicidal ideation.[11] Persistent use of psychoactive substances also interferes with other prescribed treatments – including opioid substitution therapy and anti-depressant and anti-psychotic medications – either directly by drug

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[4] ONS, 'Drug-related deaths and suicide in prison custody in England and Wales: 2008 to 2019', 26 January 2023, available here.
[5] Ibid.
[6] The 'iron law of prohibition' was a term coined by Richard Cowan in 1986 which suggests that the potency of prohibited substances increases as law enforcement becomes more intense.
[7] OHID, 'Deaths linked to potent synthetic opioids', 3 October 2024, available here.
[8] MoJ & HMPPS, 'Prison Drugs Strategy', 3 April 2019, available here.
[9] Home Office, 'Review of drugs: phase one report', 27 February 2020, available here.
[10] HMIP, 'HM Chief Inspector of Prisons for England and Wales: Annual Report 2023-24', 10 September 2024, available here.
[11] Ralphs et al, 'Adding Spice to the Porridge: The development of a synthetic cannabinoid in an English prison', February 2017, available here.

interaction or because levels of patient intoxication mean that prescribed medications may need to be withheld.

10. There have been significant changes to the make-up of the prison population, with an increase in the number of vulnerable people coming into prison. This increased vulnerability is reflected in the rate of prison deaths which has risen by almost 30% in the last 20 years.[12] Vulnerable prisoners are often more susceptible to being coerced into taking psychoactive substances and therefore also more at risk of incurring debts and becoming subject to considerable threats and/or violence. The death of Kyle Batsford at HMP Lindholme is a sad example of this. An investigation into his death found he had incurred debt because of his psychoactive substance use and that, as a result, he was bullied and used as a *"[psychoactive substance] 'guinea pig' by other prisoners"* shortly before his death.[13]
11. The impact of drug misuse also has a collateral impact on staff, ranging from the need to attend to emergency situations involving those under the influence of drugs to the responses required to address violence in connection with debt. This frequently means staff cannot undertake planned activities or respond to other demands, including disrupting planned healthcare-related activities, such as escorting prisoners to clinical appointments. The scale and severity of the impact of this disruption is felt on a daily basis across the majority of prison establishments but has never been fully evaluated.

Tackling demand

12. The prison service undertakes voluntary and mandatory drug testing, utilising toxicology services. However, it remains unclear how effective toxicology testing is at detecting psychoactive substances. Separately, healthcare undertakes point-of-care urine drug screening – primarily in category B male reception prisons and female closed prisons – which will only detect a panel of six drugs. These are opiates, cocaine, methadone, buprenorphine, amphetamine, and benzodiazepines. It is not routinely able to detect other drugs of misuse such as synthetic opioids and synthetic cannabinoids.
13. Anecdotal evidence suggests that mandatory testing often encourages practices to confound testing, such as trading urine samples and 'flushing', which involves drinking large volumes of water to diminish the detectability of substances. Further, evidence from prisons in Australia indicates that fears of being targeted for drug testing and increased surveillance make prisoners reluctant to seek drug treatment or rehabilitation. Instead, the study recommends broadening the focus from simply monitoring drug use to monitoring drug-related health outcomes such as overdoses, injecting-related infections, or engagement in drug treatment.[14]
14. As outlined in the World Health Organization's (WHO) 2014 report on prisons and health, harm reduction strategies acknowledge drug users are often unable to completely abstain from drug misuse in the short term. Rather, they aim to help users reduce the potential harm from drugs, such as the transmission of infectious diseases which can result in high levels of illness and death.[15] While harm reduction interventions, such as needle and syringe programmes, are

[12] There were 2.8 deaths per 1,000 prisoners in 2004 compared to a rate of 3.6 per 1,000 prisoners in 2023. MoJ & HMPPS, 'Deaths in prison custody 1978 to 2023', 25 January 2024, available here.
[13] PPO, 'Independent investigation into the death of Mr Kyle Batsford, a prisoner at HMP Lindholme, on 25 September 2019', 23 September 2022, available here.
[14] Drug and Alcohol Review, 'Re-examining mandatory drug testing in Australian prisons', 7 July 2024, available here.
[15] WHO, 'Prisons and Health', 23 June 2014, available here.

available to the general population across England and Wales, they are not available within the prison setting.[16] **Consideration should be given to an increase in focus and investment in practical and person-centred approaches to reduce the negative consequences of drug misuse.** This is particularly important within the current context of a *"zero-tolerance approach to drugs"* in prison.[17]

15. Involvement of prison security and drug strategy staff alongside healthcare teams within a regular multi-disciplinary meeting environment can be an important way for health and prison colleagues to share relevant information on issues such as traded medications, drug finds, intelligence relating to dealing activities, and debt. Currently, these fora are variable in terms of frequency and attendance across the prison estate and often face challenges due to staff turnover and shortages. Staffing pressures may also lead to inadequate monitoring and surveillance, as well as delayed responses to drug-related medical emergencies.
16. Professor Dame Carol Black pointed to a link between purposeful activity and drug misuse. Prisons with the highest rates of drug use had the worst HMIP purposeful activity scores while prisons with low drug use had good scores.[18] The latest HMIP annual report highlighted that too many prisoners continued to be locked in their cells with nothing to do, stating *"it was hardly surprising that this boredom often contributed to many taking drugs"*.[19] Similarly, the Independent Monitoring Board at HMP Belmarsh recently raised concerns that the lack of purposeful activity may be *"contributing to a sharp increase in drug use"*.[20] **More must be done to recruit and retain good staff to ensure the delivery of consistent and meaningful activities and enable effective management and mitigation of risk factors for drug misuse through multi-disciplinary working.**

<u>Support for prisoners</u>

17. Psychoactive substances often become the drugs of choice due to the relative ease with which they can be smuggled into prison. Analysis of Prisons and Probation Ombudsman (PPO) reports found that synthetic cannabinoids were implicated in almost half (48%) of the 129 non-natural deaths in prison between 2015 and 2020.[21] Assessing and managing someone who is under the influence of synthetic cannabinoids can be very challenging. While there are licenced and evidence-based treatments for opioid and alcohol dependence, there are no effective clinical treatments or detoxification approaches for persistent synthetic cannabinoid use. Interventions to reduce use are largely psychosocial and limited in efficacy and uptake.[22] **Dedicated research is needed to inform effective interventions for the management and treatment of persistent use of synthetic cannabinoids and other psychoactive substances.**

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[16] NICE, 'Needle and syringe programmes', 26 March 2014, available here.
[17] UK Government, 'From harm to hope: A 10-year drugs plan to cut crime and save lives', 6 December 2021, available here.
[18] Home Office, 'Review of drugs – evidence relating to drug use, supply and effects, including current trends and future risks', 27 February 2020, available here.
[19] HMIP, 'HM Chief Inspector of Prisons for England and Wales: Annual Report 2023-24', 10 September 2024, available here.
[20] IMB,' Annual Report of the Independent Monitoring Board at HMP Belmarsh', 11 October 2024, available here.
[21] Ibid.
[22] Only 10.5% of prisoners using synthetic cannabinoids had accessed support (including psychosocial and harm reduction advice) in a study carried out among category B prisoners in England. Craft et al, 'Synthetic cannabinoid use in an adult male prison in the UK', International Journey of Drug Policy, 7 October 2023, available here.

18. Additionally, women in prison are particularly vulnerable and at risk of problematic drug use.[23] They tend to experience drug dependence and treatment differently from men and have disproportionately higher levels of health and social care needs than their male counterparts. However, as highlighted in the National Women's Prisons Health and Social Care Review, the national substance misuse service specification is not gender specific. There remains a gap in provision for women whose substance misuse is driven by past trauma, which can impact their experiences of services and health outcomes.[24] **A women-specific approach should be adopted for substance misuse treatment in the criminal justice system.**
19. Drug misuse is often associated with, or caused by, wider social and economic issues. Many drug users have led chaotic lives and experienced a range of issues with housing, employment, education, and health prior to imprisonment. For some individuals, prison may provide the only opportunity to have these needs addressed. **A streamlined approach which encourages services to be collaborative, and ideally co-located, is required to enable them to work in an integrated way in response to multiple social needs and to optimise treatment and support for prisoners.** These services should include housing, employment, and mental and physical health.
20. Similarly, as outlined in the WHO's 2014 report on prisons and health, drug dependence *"should be treated in the same way as other chronic illnesses, including diagnosis and a treatment plan"*.[25] There needs to be increased resources for addressing both the clinical and psychosocial elements of drug misuse, with meaningful and evidence-based treatments. This should include an increase in therapeutic community-style environments. It should also include improved pathways and access from prison into tier 4 rehabilitation centres whereby round-the-clock medical care and supervision are provided. **An integrated pathway of care from prison to the community is necessary to ensure continuity of care and promote recovery.**
21. This is particularly important within a context where support is often not available or accessed following release from prison.[26] Studies of people who have been released from prison show that the risk of drug-related death is particularly increased during the first two weeks.[27] Between September 2021 and December 2023, the PPO investigated 137 deaths within 14 days of release from prison. 83 of these deaths were drug-related, of which almost a quarter (24%) occurred within one day of release, potentially owing to lower levels of tolerance and the difficulties faced by prison leavers to access support once released into the community.[28]
22. Finally, it is important to note that more than a third of people in prison are there due to crimes relating to drug use.[29] Custodial sentences can have unintended negative consequences for offenders who have problems with substance misuse – including an increased risk of death, particularly following release from prison – and short custodial sentences can frustrate the delivery of effective substance misuse treatment programmes. **Community Sentence Treatment**

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[23] European Monitoring Centre for Drugs and Drug Addiction, 'Prison and drugs in Europe: Current and future challenges', 25 June 2021, available here.
[24] NHS England, 'A review of health and social care in women's prisons', 23 November 2023, available here.
[25] WHO, 'Prisons and Health', 23 June 2014, available here.
[26] IAPDC & RCGP, 'Protecting lives: a cross-system approach to addressing alcohol and drug-related deaths within the criminal justice system', 10 January 2022, available here.
[27] Merrall et al, 'Meta-analysis of drug-related deaths soon after release from prison', Society for the Study of Addiction, 5 August 2010, available here.
[28] PPO, 'Learning lessons bulletin: Fatal incident investigations: Issue 19', 18 July 2024, available here.
[29] UK Government, 'From harm to hope: A 10-year drugs plan to cut crime and save lives', 6 December 2021, available here.

Requirements should be prioritised for offenders with drugs misuse needs. Adequate and sustained funding is needed to improve the availability, accessibility, and implementation of treatment requirements.

23. The IAPDC would welcome the opportunity to provide further information or oral evidence if required by the JSC.

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