

## Introduction

This is a questionnaire in support of the consultation on proposed changes to ‘The transfer and remission of adult prisoners under the Mental Health Act 1983 good practice guidance 2019’ and introduction of ‘The transfer and remission of immigration removal centre detainees under the Mental Health Act 1983 good practice guidance 2019’.

Please complete this questionnaire and return it as follows:

- By email: [england.healthandjustice@nhs.net](mailto:england.healthandjustice@nhs.net)
- By post: Health and Justice, Specialised Commissioning, Third Floor, NHS England and NHS Improvement, Skipton House, 80 London Road, London, SE1 6LU

For more information on this consultation or to complete an online questionnaire, please visit here: <https://www.engage.england.nhs.uk/consultation/transfer-and-remission-of-adult-prisoners/>.

## Section one

1. The option that best describes me or my organisation is: (please select one box)

- Patient
- Family member / carer
- Clinician
- Commissioner
- Service provider
- Partner organisation
- Charity or representative group
- Other

If you have selected ‘Other’, please provide details:

[Click or tap here to enter text.](#)

If you are a service provider or a partner organisation, please describe your role:

[Click or tap here to enter text.](#)

2. Are you responding on behalf of an organisation?

- Yes
- No

If you have selected 'Yes', which organisation are you responding on behalf of?

Prison Reform Trust

3. The first part of my postcode is: (This will help us see where in the country we are getting responses from. We won't use it to identify where you live.)

[Click or tap here to enter text.](#)

**To share your views on the proposed changes to 'The transfer and remission of adult prisoners under the Mental Health Act 1983 good practice guidance 2019', please complete the questions in section two.**

**To share your views on the proposed introduction of 'The transfer and remission of immigration removal centre detainees under the Mental Health Act 1983 good practice guidance 2019', please complete section three.**

**If you would like to share your views on both of the proposed guidance documents, please complete sections two and three.**

## Section two – questions on proposed changes to ‘The transfer and remission of adult prisoners under the Mental Health Act 1983 good practice guidance 2019’

1. Is the proposed ‘The transfer and remission of adult prisoners under the Mental Health Act 1983 good practice guidance 2019’ easy to understand?

- Yes
- No

If you have selected ‘No’, please:

- provide details on what is not easy to understand
- let us know how we could make this clearer.  
[Click or tap here to enter text.](#)

2. Are the stages of the proposed referral, assessment and transfer process clear?

- Yes
- No

If you have selected ‘No’, please:

- provide details on what is not clear
- let us know how we could make this clearer.  
[Click or tap here to enter text.](#)

3. Are the stages of the proposed remission process clear?

- Yes
- No

If you have selected ‘No’, please:

- provide details on what is not clear
- let us know how we could make this clearer.  
[Click or tap here to enter text.](#)

4. Do you feel that the proposed guidance would support the timely transfer and remission of patients?

- Yes
- No

If you have selected ‘No’, please provide details on what you feel is needed to support the timely transfer and remission of patients.  
[Click or tap here to enter text.](#)

5. In the proposed changes to the guidance, **the timescale for transfers would increase from 14 days to 28 days**. This proposed timescale would allow for a greater degree of assessment (up to 14 days) to ensure that individuals are transferred to the most suitable hospital to best meet their mental health needs. This proposed timeframe would also ensure alignment with the NHS England and NHS Improvement [access assessment service specification](#) and support the recommendation set out in the '[Modernising the Mental Health Act, increasing choice, reducing compulsion, final report of the Independent Review of the Mental Health Act 1983](#)'.

(Please see the consultation document for more information on this.)

Is the proposed new timescale of 28 days appropriate for transfers?

- Yes
- No

If you have selected 'No', please:

- explain the reason for your answer
- provide details of what timescale you feel would be appropriate and why.

Although we do not support people being held in prison for longer than necessary under these circumstances, we support the implementation of the recommendation made by the Independent review of the MHA which concluded that clarifying the timescales would increase the quality of referrals and therefore the overall speed in which someone is transferred to appropriate support. Monitoring and oversight of these timescales is also likely to improve compliance.

Despite the potential improvement, it is important that services still respond with appropriate urgency and the increase in timescales does not delay a transfer which would otherwise have taken place. As per our joint submission to the MHA review, access to secure and specialist beds, whether for assessment or treatment and care, should be dealt with in the same urgency for individuals in the criminal justice system as for those in the wider community.

6. In the proposed changes to the guidance, **the remission process would be completed within a maximum of 14 days**.

Remission to prison may be requested under Section (s) 50, 51 or 53 of the Mental Health Act if the responsible clinician, any other approved clinician or a Mental Health Tribunal advises the Secretary of State for Justice that:

- treatment in hospital is no longer required or
- no effective treatment is available in the hospital where the patient is detained.

Alternatively, if the First Tier Mental Health Tribunal concludes that under s47 a transferred patient would be entitled to a discharge if they were a restricted hospital order patient, then the hospital manager may return them to prison, subject to any comments made by the First Tier Tribunal and the decision of the Secretary of State for Justice.

Is the proposed new timescale of 14 days appropriate for remission to prison?

- Yes
- No

If you have selected 'No', please:

- explain the reason for your answer
- provide details of what timescale you feel would be appropriate and why.

[Click or tap here to enter text.](#)

7. Are there any changes or additions that could be made to the proposed guidance that you feel would help clinicians ensure the safe and timely referral, assessment, transfer and remission of individuals to and from mental health in-patient services?

- Yes
- No

If you have selected 'Yes', please state what changes could be made and why.

There is no discernible benefit to the public to transfer an individual from prison, where their mental wellbeing has declined, to an NHS facility, where they receive treatment, only to return them to the toxic environment of a prison, where their mental health deteriorates again. While a remission under Section 50, 51, or 53 of the MHA may be required in exceptional circumstances, the norm should be resettlement through the sequence of NHS facilities: high, medium, then low secure units. The good practice guidance should set a better balance between the hold of the criminal justice system and the therapeutic treatment of the patient, especially as the latter is likely to have a better impact on reducing the risk of reoffending.

Where someone has to be returned to prison, automatically returning patients to the reception prison in the area where the inpatient treatment has been provided will not always be the best course of action for their wellbeing and continued recovery. At this stage they may still need significant support and be vulnerable to the stress and anxiety that a change in their environment can bring - especially when that change is a return to prison. Reception prisons can be particularly busy and chaotic environments in which prison staff and healthcare services are stretched by the high turnover of the population. There may be another prison within the area which is more suitable – perhaps one that can provide a more stable environment, or that is better equipped to offer the support needed. The patient may feel more comfortable returning to a prison in which they previously resided, where they are familiar with staff and the regime and the support available. Location in relation to family members is also important, particularly where their support plays a substantial role in the wellbeing of the patient. Consideration should be given to these factors in consultation with the patient and the Prison Group Director for that area.

8. Is the proposed dispute resolution process clear?

- Yes
- No

If you have selected 'No', please:

- provide details on what is not clear
- let us know how we could make this clearer.

[Click or tap here to enter text.](#)

9. Please provide any comments that you have about the potential impact on equality and health inequalities which may arise as a result of the proposed changes that we have described?

We reiterate the comments in the joint response to the Independent review of the MHA provided by Prison Reform Trust, Centre for Mental Health, and Together for Mental Wellbeing that 'there should be a clear principle of equivalence between the civil and forensic parts of the MHA – people in the criminal justice system should expect the same access to and quality of treatment and outcomes as people in the community, and the same approach to and level of safeguards'.

It is also worth reiterating that women and children represent minority groups within the prison estate and are often held far from home as a result. These long distances are frequently replicated when secure or specialist beds are sought, making it hard for family ties to be maintained. Family ties should be considered both at referral and remission stage (as mentioned above).

The Final report of the Independent Review of the Mental Health Act 1983 (December 2018) also recognised the following in relation to equality: 'the prison population has an over representation of the Black British population compared to the general population. We also know that there is similar overrepresentation of minority ethnic community patients in low and medium secure hospitals. This means that any improvements to waiting times for transfer should be of particular benefit for minority ethnic community prisoners.'

10. If you have views that are not covered in the previous questions, or would like to add anything, please do so here:

The Prison Reform Trust report, Deep Custody, by Sharon Shalev and Kimmett Edgar, described the link between conditions in segregation units – social isolation, inactivity, and loss of autonomy – and harm to mental health – anxiety, insomnia, depression, self-harm.

The prison service's segregation policy states that segregation should not be used for people awaiting transfer to a secure NHS facility. However, because people who have severe mental health needs are difficult to manage on normal location, they are often held in segregation pending assessment.

The harm to their mental health resulting from the prison environment increases the urgency of transfer to a setting which can provide treatment.