



**The transfer and remission of adult prisoners under the Mental Health Act 1983**

**Good practice guidance 2019**

NHS England and NHS Improvement

The transfer and remission of adult prisoners under the Mental Health Act 1983

Good practice guidance 2019

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# Executive summary

A significant proportion of the adult prison population will experience mental health problems during their period in custody, either because of a relapse in a pre-existing condition or because they have become unwell for the first time.

Most individuals will be treated successfully by prison mental health services. Some will require inpatient care as their clinical needs cannot be met within a prison setting and they have been assessed by a Section (s) 12 doctor as meeting the criteria for detention under the [Mental Health Act 1983](https://www.legislation.gov.uk/ukpga/1983/20/contents) (MHA). Following a period of admission, assessment and treatment, some will be remitted back to prison.

Historically, some patients have experienced delays in the referral, assessment, transfer and remission process. The aim of this good practice guidance is to facilitate timely access to appropriate treatment under the MHA and reduce unnecessary delays.

The following guidance sets out the process for both the transfer to secure inpatient treatment and remission to prison.

# Introduction

Prisoners with mental illness who require inpatient treatment in secure mental health services can only be transferred to hospital under the MHA with the agreement of the Secretary of State for Justice.

Sentenced prisoners are usually transferred under s47 of the MHA and prisoners on remand (including civil prisoners and immigration detainees) transferred under s48. The Secretary of State for Justice may add a restriction order under s49 of the MHA.

Historically, prisoners have faced delays in accessing secure inpatient treatment. By providing appropriate and timely treatment, it is anticipated that the risk of harm to self and others, as well as suicide is reduced.

This guidance sets out the time frame for completing the assessment, transfer and remission of individuals detained under the MHA to and from mental health secure services and prisons. This applies to adult prisoners (sentenced, un-sentenced or on remand) aged 18 and over.

In some cases, and depending on the clinical and risk presentations, the transfer should be completed as a priority, providing equivalence to those patients in the community with similar needs.

Providing appropriate intervention and treatment at the right time and in the right place is vital to improving outcomes to individuals with mental illness. For some prisoners with severe mental illness, a transfer to inpatient treatment will be an important element in supporting better outcomes in the longer term.

This guidance supersedes and replaces the guidance on transfers [Good Practice Procedure Guide[[1]](#footnote-1)](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/215648/dh_125768.pdf) published by the Department of Health in 2011.

**2.1 Purpose and scope**

The purpose of this guidance is to promote good practice and support effective joint working between the agencies involved in transfer and remission processes, providing benefit to the patient and timely and effective treatment.

The guidance applies to adult prisoners (sentenced, un-sentenced or on remand) aged 18 years or over. There is separate guidance for children and young people in secure settings. [Procedure for the Transfer from Custody of Children and Young People to and from Hospital under the Mental Health Act 1983 in England](http://iapdeathsincustody.independent.gov.uk/wp-content/uploads/2011/08/Transfer-from-custody-of-young-people-under-the-Menatal-Health-Act.pdf)[[2]](#footnote-2).

This guidance relates to the transfer and remission of English patients detained under the MHA to and from English prisons and mental health secure services. It does not cover procedures in Scotland, Wales or Northern Ireland.

This guidance is for use by:

* offender personality disorder (OPD) services
* prison mental health services
* NHS England and NHS Improvement or parties who have been given devolved commissioning arrangements, such as New Care Model (NCM) provider collaboratives or equivalents. (This document refers to NHS England and NHS Improvement specialised commissioning as the commissioner of adult high, medium and low secure services. This reference includes other parties who have taken on devolved commissioning arrangements.)
* clinical commissioning groups (CCGs)
* inpatient mental health providers
* Her Majesty’s Prison and Probation Services (HMPPS)
* Ministry of Justice (MOJ).

The guidance applies to transfers and remissions from high, medium and low secure services and psychiatric intensive care units (PICU) in general adult mental health.

Although not a definitive guide to the MHA, this guidance sets out elements that are applicable to prison transfers and remissions. Information about the wider application of the MHA is contained in the [Reference Guide to the Mental Health Act 1983](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/417412/Reference_Guide.pdf)[[3]](#footnote-3)

and [Mental Health Act 1983:Code of Practice](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/435512/MHA_Code_of_Practice.PDF)[[4]](#footnote-4).

The [Independent Review of the Mental Health Act, December 2018](https://www.gov.uk/government/groups/independent-review-of-the-mental-health-act)[[5]](#footnote-5) has also recommended new timescales and principles for the transfer of patients, which have been incorporated into this guidance.

The key elements of health care service improvements set out in the [NHS Long Term Plan[[6]](#footnote-6)](https://www.longtermplan.nhs.uk/publication/nhs-long-term-plan/) (LTP) have been integrated throughout this guidance.

**2.2 Implementation**

The effective implementation of prison referral, assessment, transfer and remission is dependent on cooperation between several organisations and agencies. Early and timely information sharing between all relevant agencies will support the transfer and remission processes and improve patient outcomes.

# Commissioning

NHS England and NHS Improvement health and justice commissioning is responsible for commissioning all healthcare services delivered within prison settings, including mental health services.

NHS England specialised commissioning is responsible for commissioning adult, low, medium and high secure mental health services, in addition to a wider range of other specialised mental health services.

The OPD pathway services are commissioned jointly by NHS England and NHS Improvement specialised commissioning and HMPPS. These provide a network of related services in both prisons and the community for people in contact with the criminal justice system.

CCGs are responsible for commissioning health care services for their area, which includes adult mental health inpatient services together with adult PICUs.

The local clinical assessments in response to a referral and access assessment process will recommend the service specification (high, medium, low secure or PICU) of inpatient care and treatment required ([Specialised Secure Mental Health Services Specifications](https://www.england.nhs.uk/commissioning/spec-services/npc-crg/group-c/c02/)[[7]](#footnote-7)). It is acknowledged that the clinical presentation can change during the assessment process culminating in the decision for the least restrictive environment, which can be challenging.

**3.1 Establishing the responsible commissioner**

The process for transferring patients can be complex, particularly in terms of commissioning responsibility. Whilst this guidance aims to be comprehensive, other national guidance documents are relevant, as follows:

[Who pays? Determining responsibility for payments to providers, August 2013](https://www.england.nhs.uk/wp-content/uploads/2014/05/who-pays.pdf)[[8]](#footnote-8)

[Refocusing the care programme approach, policy and positive practice guidance, March 2008](https://webarchive.nationalarchives.gov.uk/20130124042407/http%3A/www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/%40dh/%40en/documents/digitalasset/dh_083649.pdf)[[9]](#footnote-9)

The responsible commissioner guidance makes specific reference to:

* the transfer of individuals detained under the MHA.
* individuals of no fixed abode.
* individuals who have moved between areas / GP practices.

The general rules are as follows:

* Where an individual is registered as a patient at an NHS GP practice, the responsible commissioner will be the CCG of which the GP practice is a member. This also applies should the individual reside in a different CCG to the GP practice.
* Where an individual is not registered with a GP practice, the responsible commissioner will be the CCG in whose geographical area the individual is ‘usually resident’.

The NHS England guidance ‘Who pays? Determining responsibility for payments to providers, August 2013’ sets out an important principle that should be adhered to when disputes regarding funding arise:

**‘No treatment should be refused or delayed due to uncertainty or ambiguity as to which CCG is responsible for funding an individual’s healthcare provision.’**

This principle applies to cross-border issues within the UK. Whilst it is not possible to cover every eventuality within this guidance; the NHS is expected to act in the best interests of patients at all times and work together in the spirit of partnership.

**3.2 Regional commissioning arrangements**

It is important to understand the arrangements for commissioning secure mental health services as this dictates responsibility for agreeing to meet the costs of inpatient treatment.

Whilst a local commissioner is responsible for an individual, the mental health service they require may be commissioned under regional or national commissioning arrangements.

# Implementing the guidance for referral, assessment and transfer

The process should continue to be followed during any disputes over funding responsibility. Access to inpatient treatment should not be delayed whilst this is resolved and should continue without prejudice. Unknown responsibility is not a reason to delay transfer.

In such circumstances, commissioners should agree interim arrangements for meeting the costs of inpatient treatment whilst the dispute is resolved.

In some circumstances, the Secretary of State for Justice may decide to approve direct admission to a specific service, regardless of who is responsible for meeting the costs of the admission.

**4.1 Referral, assessment and transfers**

The referral should be initiated as soon as it is identified that a person’s mental health needs cannot be appropriately treated within a prison and they fit the criteria for detention under the MHA and they require a transfer to a mental health hospital.

All transfer and remission information is exchanged electronically and must only be done using secure email systems. Personal email accounts must never be used for this purpose.

Determining the level of clinical priority of a referral is key to ensuring that the assessment and any subsequent transfer takes place within appropriate timescales.  The assessment and transfer process does not stop whilst the level of priority is determined or if a decision is made to re-categorise this. Timescales will be monitored so that support can be provided in the event difficulties are experienced by regional NHS England and NHS Improvement health and justice teams or specialised commissioning teams.

Where it is believed or has been formally determined that the patient lacks capacity to make decisions about their care and treatment, provision within the [Mental Capacity Act 2005](http://www.legislation.gov.uk/ukpga/2005/9/pdfs/ukpga_20050009_en.pdf) [[10]](#footnote-10) should also be considered and applied where indicated.

The time frame will only stop when the prisoner is transferred into hospital or a decision is made by the assessing service that the prisoner does not require transfer.  Referrers must consider whether services delivered as part of the OPD pathway would meet the need of the patient rather than referring them under the MHA.

The timescales that the services will work to are described below.  It should be noted calculations are made in calendar days over a seven-day week.

The threshold for the priority of a transfer is determined through a clinically informed discussion between the referrer and assessing service, considering the following issues:

* Is there evidence of a rapid deterioration in mental health presenting a risk to self, other prisoners and staff?
* Is there evidence of rapid deterioration in physical health due to mental health problems?
* Is there a need for restrictive practices in prison to maintain safety due to mental health presentation?

The monitoring of time to transfer ends:

* if the assessment of mental health inpatient services concludes inpatient treatment is not required as the criteria for detention are not met; or
* when the patient has been transferred to hospital.

The monitoring of time to transfer does not stop during processes to resolve differences of clinical opinion or disputes over commissioning responsibility. The clock will only stop when the difference of opinion has been resolved, and the patient is either accepted to hospital or the dispute over commissioning responsibility is resolved (whereby the clock continues until the patient is transferred), or the patient is deemed not suitable for detention under the MHA.

**4.1.1 Timescales for referral, assessment and transfer**

The time from referral for a first assessment to transfer should take no more than 28 days. In line with the Independent Review of the Mental Health Act, December 2018, this guidance introduces two new, sequential, time limits of 14 days each:

1. From the point of initial referral to the first psychiatric assessment.
2. From the first psychiatric assessment until the transfer takes place.

(These incorporate the time between the first and second psychiatric assessments and the time to transfer).

* Monitoring of time to transfer begins on the day that the initial referral is made to the appropriate clinical team by the relevant prison mental health team.
* An access assessment for high, medium and low secure services or an appropriate assessment for non-secure services, such as a PICU, should be completed. A proposed time frame in which the assessment will be conducted should be discussed and agreed between the assessing service and the referrer, based on the patient’s clinical presentation and risk.  The assessing service must confirm the time and date of the assessment to the referrer at this point.
* Where a transfer to hospital is indicated, the arrangements for identification of appropriate inpatient service and transfer should be started concurrently to the issuing of the written report.
* Monitoring of time to transfer stops when the patient is admitted to an appropriate mental health inpatient service.
* **The total time frame should be no longer than 28 days from beginning to end**.

**4.1.2 The referral, assessment and transfer process in more detail**

* Once a need for referral for inpatient assessment is identified by a prison mental health team, establish the responsible commissioner.
* Keep the patient and their family / carers informed about the process and what they can expect to happen throughout each stage.
* Depending on the type of inpatient assessment required:
1. Contact the relevant NHS England and NHS Improvement adult secure case manager, or equivalent based on devolved commissioning arrangements, in the area where the prisoner originated from, if secure inpatient care is indicated.  Refer to the [Who pays? Determining responsibility for payments to providers, August 2013](https://www.england.nhs.uk/wp-content/uploads/2014/05/who-pays.pdf)[[11]](#footnote-11) document

 OR

1. contact the relevant CCG if a PICU is felt appropriate. Refer to the ‘Who Pays? Determining responsibility for payments to providers, August 2013’ document.
* Make a formal referral to the responsible mental health provider in the patient’s originating area and arrange the relevant assessment.
* The prison mental health team should in parallel contact the mental health casework section (MHCS) at the MOJ to get advice on the level of secure mental health service likely to be required to satisfy the Secretary of State for Justice. At the same time, the H1003 form and first medical report should be sent to the MHCS (Appendix 1).
* The prison mental health team must work with custodial staff within the prison to gather all offending, security and medical information to support the process. There are no data protection issues preventing custody staff from sharing information about a patient’s conviction and offending history to prison mental health team staff to support this process. Refer to section 6.
* An access assessment or equivalent should be completed by the relevant mental health inpatient service, and a subsequent medical report generated and an appropriate bed identified.
* First and second medical reports are completed to be sent to the MHCS to enable transfer
* The prison mental health service must send the MHCS all information required for the transfer with confirmation of bed availability. This will allow a decision to be made based on the recommendations and evidence.
* The MHCS approves and issues a warrant.  *It should be noted that there are occasions where the Secretary of State for Justice might refuse such a transfer*. This stops the process.
* The mental health inpatient service confirms the admission date to the prison.
* The prison and prison mental health service make the appropriate arrangements to transport the patient to hospital with the required escorts.

**4.1.3 Monitoring the timescales**

Monitoring of time to transfer begins on the day that the initial referral is made to the appropriate clinical team (Access Assessment team or CCG team) by the relevant prison mental health team.

The monitoring of time to transfer ends:

* if the assessment of mental health inpatient services concludes inpatient treatment is not required as the criteria for detention are not met; or
* when the patient has been transferred to hospital.

The monitoring of time to transfer does not stop during processes to resolve:

* differences of clinical opinion
* disputes over commissioning responsibility.

**4.2 Problem solving (dispute resolution)**

In cases where there is a difference of clinical opinion on the need for transfer and a resolution cannot be agreed by the two doctors undertaking the assessments, an agreement should be made about seeking a third-party clinical assessment.

Where the issue relates to referrals to secure inpatient care, a third-party clinical assessment should be arranged with the agreement and involvement of NHS England and NHS Improvement case managers. The third-party view should be completed within three days to prevent undue delay in the transfer process.

The view of the third-party clinical assessment is to be accepted by all as the prevailing clinical recommendation

**4.3 Applications for s47 transfer late in sentence**

The timing of applications for a Secretary of State for Justice direction to transfer is crucial, particularly where the prisoner’s sentence is short or the prisoner is close to their automatic release date (ARD).  Following judicial reviews of prison transfers, the High Court has clarified the legal position on applications made late in a sentence.

The process and timescales are outlined as follows.

|  |  |
| --- | --- |
| **Action** | **Time limit** |
| Application | Applicant must have personally seen the patient within the 14 days ending on the date of application. |
| Examination for purposes of medical recommendation for application | No more than five clear days must have elapsed between the days on which the separate examinations took place. |
| Medical recommendations in support of applications | The recommendations must be signed on date of application. |
| Conveyance and admission to hospital | Patients can only be conveyed and admitted to hospital within the period of 14 days starting with the day on which the patient was last examined by a doctor for the purpose of the application. MHCS will not agree a transfer once the automatic release date has been reached. |

# Implementing remission to prison from mental health inpatient service

Remission to prison may be requested under s50, 51 or 53 of the MHA 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 Tribunal (Mental Health) concludes that under s47 a transferred patient would be entitled to a discharge if they were a restricted hospital order patient, then the hospital managers 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.  Additional information on remission can be found in the [Reference Guide to the Mental Health Act 1983](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/417412/Reference_Guide.pdf)[[12]](#footnote-12).

It is essential that the patient understands and is involved in the remission process, particularly around s117 after care planning and knows what to expect at each stage.

**5.1 Remission process and timescales**

Responsibility for coordinating, overseeing and managing the remission process is shared between the mental health inpatient service, the receiving prison and the MHCS:

* The remission process should be completed within **a maximum 14 days.**
* A decision to remit to prison is made by the mental health inpatient service and then communicated with the prison mental health team, the prison operational staff and the MHCS.
* The inpatient mental health service invites the prison mental health team and MHCS to a s117 planning meeting. The s117 meeting must provide detailed information of the management of risk and treatment whilst the patient has been in hospital and any information relevant to the provision of care once returned to prison.
* The MHCS must be informed of confirmation of acceptance by the relevant prison operational manager.
* There are situations where remission needs to occur more urgently; for example, a serious subversion of security or very serious violence and the mental disorder is no longer of a nature or degree to warrant detention.

These are rare situations, but the level of risk should determine the need to ensure remission takes place appropriately and as soon as possible. The MHCS can be contacted for support and will consider these requests as expediently as possible.

It is important to note that most, but not all, transferred prisoners will return to prison.  Cases where it is not appropriate to return to prison may include:

* patients who require long-term inpatient care past release date
* patients transferred under s47 without a restriction direction
* where the court sentences and applies for a hospital order.

Responsibility for coordinating, overseeing and managing the remission process is shared between the inpatient service provider, the receiving prison and the MHCS.

When a patient is well enough for remission back to prison and there are difficulties in securing the agreement of the receiving prisons to accept a returning patient, the mental health service provider should alert the prison group director’s office for the region the prisoner is returning to.

**5.2 Receiving prison**

Male patients returning to prison from mental health inpatient services will return to the reception prison in the area where the inpatient treatment has been provided. There are exceptional circumstances that can prevent this such as they are Category A prisoners who will be returned to a Category A prison.

Female patients will return to the nearest reception prison in the female estate, with the exception of those with Restricted Status who will be managed by the HMPPS Category A team.

When the transfer warrant is issued by the Secretary of State for Justice, prisons are expected to make arrangements to accept the patient once informed by the clinical team that the criterion for detention in hospital is no longer met. Remission to prison should be completed soon after the s117 meeting has been held and within the 14-day period stated above.

# Information sharing and confidentiality

All staff involved in transfers and remission should understand the rules governing the appropriate sharing of confidential information between agencies, healthcare and prisons.

There are no data protection issues preventing custody staff from passing information about a patient’s conviction and offending history to prison healthcare staff for the purposes of a transfer to hospital under the MHA.

Necessary and proportionate personal information may be shared with other organisations to protect children and adults at risk, assess need, service delivery and treatment on a need to know basis.

The data protection officer, local Caldicott guardian or information governance specialist should be contacted in any exceptional or difficult circumstances.

# Patient, family and carer involvement

Patients and family members and carers, where appropriate, should be kept informed and be involved in decision making as far as possible at every stage within the process. Written information should be available for patients, to aide understanding.

# Glossary

CCG clinical commissioning group

GP general Practitioner

HO Home Office

IRC immigration removal centre

LTP Long Term Plan

MHA Mental Health Act 1983

MHCS Mental Health Casework Section

MOJ Ministry of Justice

NCM New Care Model

NHS National Health Service

OPD offender personality disorder

PICU psychiatric intensive care unit

UK United Kingdom

# Appendices

**Appendix 1**

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**MEDICAL IN CONFIDENCE**

**H1003 FORM**

**INFORMATION ON MENTALLY DISORDERED PRISONER RECOMMENDED FOR TRANSFER TO HOSPITAL UNDER SECTIONS 47/49 OF THE MENTAL HEALTH ACT 1983**

**PLEASE FILL OUT THIS FORM IN FULL**

|  |
| --- |
| **SECTION 1 – DETAILS OF REQUESTING PRISON** |
| **NAME: HMP TELEPHONE NUMBER:** |
| **EMAIL: CONTACT NAME:** |
| **SECTION 2 – DETAILS OF PRISONER**  |
| **SURNAME: FIRST NAMES:** |
| **ALIASES:** |
| **PRISON NUMBER: DATE OF BIRTH: / / GENDER M / F**  |
| **SECURITY CATEGORY (please circle): A B C D OTHER (please specify for female detainees)** **ON THE ESCAPE LIST? Y / N**  |
| **SECTION 3 – SENTENCED PRISONERS** |
| **Name of Court:** |
| **Offence(s):** |
| **Total sentence and order of court for each offence:** |
| **Date of (i) conviction: (ii) sentence (if different):** |
| **Is this prisoner close to their release date: Y / N****If Yes why is the transfer request being made: (e.g. short sentence, long wait for assessment etc.)** |
| **Release Dates (please complete as appropriate):** |
|  **(i) Automatic Release Date (ARD):** |
|  **(ii) Conditional Release Date (CRD):** |
|  **(iii) Release on Temporary Licence Eligibility Date (ROTL):** |
|  **(iv) Parole Eligibility Date (PED):** |
|  **(v) Non-Parole Release Date (NPD):** |
|  **(vi) Licence Expiry Date (LED):** |
|  **(vii) Sentence Expiry Date (SED)/** **Sentence & Licence Expiry Date (SLED):** |
|  **(viii) Lifers – Tariff Date/Indeterminate Sentence for Public Protection (ISPP) – specified period:** |
| **Details of responsible probation service NAME:** **EMAIL:** **PHONE:** |
| **Details of Prison Offender Manager: NAME:** **EMAIL:** **PHONE:** |
| **Has the prisoner lodged an appeal? Y / N** **If yes, Criminal Appeal Officer Number:** |
| **SECTION 4 – DETAILS OF DISORDER** |
| **Type(s) of mental disorder from which the prisoner is suffering:** |
| **Is the prisoner suicidal, or has he/she a history of suicidal tendencies? Y / N** **If yes, please give full details**  |
| **Is the prisoner dangerous to others, or has he/she a history of violence? Y / N****If yes, please give full details**  |
| **Has the prisoner a history of alcohol/drug abuse? Y / N** **If yes, please give full details**  |
| **Has the prisoner received psychiatric treatment previously? Y / N** **If yes, please give details …………………………………………………………………………………………………………………………** |
| **SECTION 5 – PROGRESS WITH ARRANGEMENTS FOR ADMISSION TO HOSPITAL** |
| **Name of any hospital consultant (who may be the Responsible NAME:****Clinician) approached with a view to providing a place for the** **inmate (including secretary or hospital admin EMAIL:****contact details as relevant)** **PHONE:** |
| **Contact details of hospital to which prisoner will be transferred Email:**  **Phone:** **Security Level (circle correct level) HIGH / MEDIUM / LOW / LOCKED / PICU / ACUTE (open)** |
| **Names and contact details of reporting medical practitioners:****Dr. Dr.** **EMAIL: EMAIL:**  |
| **Name of Medical Officer:****HMP:****Date:**  |
| **SECTION 6 - NATIONALITY AND ETHNICITY** |
| **NATIONALITY OR PLACE OF BIRTH (IF KNOWN):**  |
| **ETHNIC ORIGIN:** **A White**  **British Irish Any Other White Background (Please Specify) ……………………………………..****B Mixed** **White & Black Caribbean White & Black African White & Asian**  **Any Other Mixed Background (Please Specify) ………………………………………………………..****C Asian or Asian British** **Indian Pakistani Bangladeshi**  **Any Other Asian Background (Please Specify) …………………………………………………………****D Black or Black British** **Caribbean African Any Other Black Background (Please Specify) ………………………………………….****E Chinese or Other Ethnic Group** **Chinese Any Other (Please Specify) ………………………………………………………….**  |

**ONCE FULLY COMPLETED, PLEASE EMAIL THIS FORM TO MENTAL HEALTH CASEWORK SECTION AT:** **PRISON.TRANSFERS@HMPS.GSI.GOV.UK**

**PLEASE ALSO PROVIDE THE FOLLOWING DOCUMENTATION TO SUPPORT THE APPLICATION – TWO MEDICAL REPORTS, CASE SUMMARY (MG5), PNC PRINTOUT & ORDER OF IMPRISONMENT.**

Appendix 2

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**MEDICAL IN CONFIDENCE**

**H1004 FORM**

**INFORMATION ON MENTALLY DISORDERED DETAINEE RECOMMENDED FOR TRANSFER TO HOSPITAL UNDER SECTIONS 48/49 OF THE MENTAL HEALTH ACT 1983**

**PLEASE FILL OUT THIS FORM IN FULL**

|  |
| --- |
| **SECTION 1 – DETAILS OF REQUESTING PRISON** |
| **NAME: HMP TELEPHONE NUMBER:** |
| **EMAIL: CONTACT NAME:** |
| **SECTION 2 – DETAILS OF INMATE**  |
| **SURNAME:**  **FIRST NAMES:** |
| **ALIASES:** |
| **PRISON NUMBER: DATE OF BIRTH: SEX: M / F**  |
| **SECURITY CATEGORY (please circle): A B C D OTHER (please specify for female detainees)** **ON THE ESCAPE LIST? Y / N**  |
| **SECTION 3 – TYPE OF INMATE** |
| **Inmate’s status ( ) Remanded in custody by magistrates’ court** **( ) Committed for trial, remanded in custody by crown court etc** **( ) Convicted but awaiting sentencing** **( ) Civil prisoner** **( ) Detained under the Immigration Act 1971** |
| **Name of magistrates court and court references (if known):** |
| **Name of crown court (if applicable) and court references (if known):**  |
| **Offence(s) with which charged:**  |
| **Date(s) of first subsequent remand:**  |
| **Remanded until (if applicable):** |
| **Date committed for trial (if applicable):** |
| **Date of conviction if unsentenced (if applicable):**  |
| **Date became civil prisoner (if applicable):** |
| **Date became detained under Immigration Act 1971 (if applicable):** |

|  |
| --- |
| **SECTION 4 – DETAILS OF DISORDER** |
| **Type(s) of mental disorder from which the inmate is suffering:** |
| **Is the inmate suicidal, or has he/she a history of suicidal tendencies? Y / N** **If yes, please give full details:**  |
| **Is the inmate dangerous to others, or has he/she a history of violence? Y / N** **if yes, please give full details:**  |
| **Has the inmate a history of alcohol/drug abuse? Y / N** **If yes, please give full details:**  |
| **Has the inmate received psychiatric treatment previously? Y / N** **If yes, please give full details:**  |
| **SECTION 5 – PROGRESS WITH ARRANGEMENTS FOR ADMISSION TO HOSPITAL** |
| **Name of any hospital consultant (who may be the Responsible NAME:****Clinician) who has been approached with a view to providing a** **place for the inmate (including secretary or hospital admin EMAIL:** **contact details as relevant)** **PHONE:** |
| **Contact details of hospital to which prisoner will be transferred Email:**  **Phone:** **Security Level (circle correct level) HIGH / MEDIUM / LOW / LOCKED / PICU / ACUTE (Open)** |
| **Names and contact details of reporting medical practitioners:****Dr. Dr.** **EMAIL: EMAIL:**  |
| **Name of Medical Officer:****HMP:****Date:**  |
| **SECTION 6 – NATIONALITY AND ETHNICITY** |
| **NATIONALITY OR PLACE OF BIRTH (IF KNOWN):**  |
| **ETHNIC ORIGIN:** **A White**  **British Irish Any Other White Background (Please Specify) ……………………………………..****B Mixed** **White & Black Caribbean White & Black African White & Asian**  **Any Other Mixed Background (Please Specify) ………………………………………………………..****C Asian or Asian British** **Indian Pakistani Bangladeshi**  **Any Other Asian Background (Please Specify) …………………………………………………………****D Black or Black British** **Caribbean African Any Other Black Background (Please Specify) ………………………………………….****E Chinese or Other Ethnic Group** **Chinese Any Other (Please Specify) ………………………………………………………….**  |

**ONCE FULLY COMPLETED, PLEASE EMAIL THIS FORM TO MENTAL HEALTH CASEWORK SECTION AT:** **PRISON.TRANSFERS@HMPS.GSI.GOV.UK**

**PLEASE ALSO PROVIDE THE FOLLOWING DOCUMENTATION TO SUPPORT THE APPLICATION – TWO MEDICAL REPORTS, ANY CASE INFORMATION, PNC PRINTOUT & ORDER OF DETENTION.**

Appendix 3

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**Remission to prison of s.47 or s.48 patients**

**Mental Health Casework Section**

Please send the completed form to the Mental Health Casework Section: MHCSMailbox@hmps.gsi.gov.uk

**NB: If the situation is urgent (due to security or safeguarding issues for example), please telephone the Team Manager or Deputy Head of Casework for the relevant team to make them aware of the situation. Contact details: https://www.gov.uk/guidance/noms-mental-health-casework-section-contact-list**

Patient’s details

|  |  |
| --- | --- |
| Full name of patient |       |

|  |  |  |
| --- | --- | --- |
| MHCS reference  |       |  |

**Section 47 Patients only**

1. Has the patient passed his or her release date? [ ]  Yes [ ]  No
***If yes****, remission does not apply*.

**Section 48 Patients only**

2. Was the patient remanded in custody by a magistrates’ court and

 transferred to hospital under s.48(2)(b)? [ ]  Yes [ ]  No
***If yes****, please go to question 3 below.* ***If no****, please go to question 4.*

3. Has the patient now been committed to the Crown Court? [ ]  Yes [ ]  No
***If no****,* ***remission by the Secretary of State is not appropriate. Please refer
to the magistrates’ court for advice.***

**All Section 47 & 48 Patients**

4. Please confirm which of the following statements accurately reflect the current status of the patient:

 (Tick one box only)[[13]](#footnote-13)

 *The patient no longer requires treatment in hospital for mental disorder*? [ ]

**OR**

 *No effective treatment for the patient’s disorder can be given in the hospital [ ]
to which he/she has been removed*

Please provide information to support the response to question 4.

|  |
| --- |
|       |

5. Have you convened a section 117 meeting? [ ]  Yes [ ]  No
*This should be arranged before remission unless exceptional circumstances
apply (e.g. the patient poses a serious management problem or risk).*

6. Will a copy of the minutes of the section 117 meeting be sent to the prison [ ]  Yes [ ]  No
on remission?

7. Has the prison agreed to this remission? [ ]  Yes [ ]  No

***(NB: MHCS can only accept the authority of the Prison Governor, or other appropriate Operational Manager (including OMU) – Healthcare staff do not have the authority to agree.)[[14]](#footnote-14)***

Please give the name, status, email address and telephone number of the person in the prison who agreed to accept the patient on remission.

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8. What is the security category of the prisoner? A / B / C / D / Restricted Status / not known

(delete as applicable)

9. Is the patient a **Category A** prisoner (or “Restricted Status” if under 18 or female)[ ]  Yes [ ]  No

***If yes,*** *please ensure that the High Security Prisons Group has been contacted on 0300 047 6358.*

10. Is the patient **under the age of 18 years**? [ ]  Yes [ ]  No

***If yes,*** *please ensure that the Youth Justice Board is engaged at an early stage. Contact:*

YJB Placements: 08453636363 Email: YJBPlacements-MentalHealthTransfers@yjb.gsi.gov.uk

Please give the name and secure email address of the person in the hospital requiring the remission warrant.

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|       |

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| --- | --- |
| Name of Doctor(please print) |       |
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| --- | --- | --- | --- |
| Doctor’s signature |  | Date |       |
|  |

Appendix 4

 

Appendix 5



**Prison remission process**

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| Day 1- Day 14 |

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| Inpatient mental health provider clinical team agree inpatient treatment no longer required/available. Time remains on the original sentence. |

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| --- |
| **Treating responsible clinician** informs the MHCS, receiving prison operational and health staff and NHS England and NHS Improvement specialised commissioner.Prison agrees to accept and attend s117 meetingORcontact court for s47 patients. |

|  |
| --- |
| **Inpatient mental health provider*** Convenes s117 meeting to plan discharge, remission and aftercare
* Informs MHCS of s117 date
* Hosts s117 meeting and drafts agreed care plan
* Confirms plan in place with MHCS and proposed remission date
* Submits completed s50 to MHCS
* Provides returning prisoner with care plan
* Sends care plan to receiving prison
 |

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| --- |
| Disputes regarding acceptance from prisons to be referred to the local prisons director’s office. |

|  |
| --- |
| **MHCS**agrees planned remission date and issues warrant |

|  |
| --- |
| **Receiving prison**makes transfer arrangements ensuring escort with appropriately qualified prison health care staff |

|  |
| --- |
| ***Patient and family / carers kept informed throughout process on what they can expect to happen at each stage*** |



1. <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/215648/dh_125768.pdf> [↑](#footnote-ref-1)
2. <http://iapdeathsincustody.independent.gov.uk/wp-content/uploads/2011/08/Transfer-from-custody-of-young-people-under-the-Menatal-Health-Act.pdf> [↑](#footnote-ref-2)
3. <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/417412/Reference_Guide.pdf> [↑](#footnote-ref-3)
4. <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/435512/MHA_Code_of_Practice.PDF> [↑](#footnote-ref-4)
5. <https://www.gov.uk/government/groups/independent-review-of-the-mental-health-act> [↑](#footnote-ref-5)
6. <https://www.longtermplan.nhs.uk/> [↑](#footnote-ref-6)
7. <https://www.england.nhs.uk/commissioning/spec-services/npc-crg/group-c/c02/> [↑](#footnote-ref-7)
8. <https://www.england.nhs.uk/wp-content/uploads/2014/05/who-pays.pdf> [↑](#footnote-ref-8)
9. [https://webarchive.nationalarchives.gov.uk/20130124042407/http:/www.dh.gov.uk/prod\_consum\_dh/groups/dh\_digitalassets/@dh/@en/documents/digitalasset/dh\_083649.pdf](https://webarchive.nationalarchives.gov.uk/20130124042407/http%3A/www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/%40dh/%40en/documents/digitalasset/dh_083649.pdf) [↑](#footnote-ref-9)
10. <http://www.legislation.gov.uk/ukpga/2005/9/pdfs/ukpga_20050009_en.pdf> [↑](#footnote-ref-10)
11. <https://www.england.nhs.uk/wp-content/uploads/2014/05/who-pays.pdf> [↑](#footnote-ref-11)
12. <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/417412/Reference_Guide.pdf> [↑](#footnote-ref-12)
13. If both criteria can be said to apply, contact the MHCS for advice. [↑](#footnote-ref-13)
14. If the patient is under the age of 18, (or 18 years old and subject to a DTO) the Responsible Clinician must contact the Youth Justice Board immediately. The Youth Justice Board must attend the s.117 meeting and is the placing authority for these detainees. See question 10. [↑](#footnote-ref-14)