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Guidance on the transfer and remission of patients in the secure and detained estate: consultation report

Version 1, 10 June 2021

Contents

1. Background

Some adults within the secure and detained estate will need to be transferred to mental health in-patient services as their needs cannot be met in a prison or immigration removal centre (IRC) setting. When this happens, they require detention under the Mental Health Act 1983 (MHA) in order for their mental health needs to be assessed and treated.

For those in prison, the process for both the transfer to mental health in-patient services and remission back to prison is supported by 'The transfer and remission of adult prisoners under the Mental Health Act 1983 good practice guidance'. It applies to adult prisoners (sentenced, un-sentenced or on remand) who are aged 18 and over. This guidance, however, does not include reference to more urgent referrals and transfers. To date, there has not been guidance for those held in an IRC who require detention under the MHA.

It is therefore important to update the current guidance to help ensure the safe and timely assessment and treatment of prisoners detained under the MHA. It is also a priority to introduce guidance for individuals within an IRC who have been detained under the MHA for assessment and treatment. This is backed by the findings from the 2017 National Audit Office report into mental health services in prisons and the final report of the Independent Review of the Mental Health Act 1983, as well as The Five Year Forward View for Mental Health.

NHS England and NHS Improvement subsequently undertook a period of engagement with a broad range of stakeholders from January-September 2018 to inform proposed updates to the existing guidance and the development of new guidance for IRCs.

Key findings from this engagement are as follows:

- There is a need to reduce the length of delays to transfer and remission, particularly in the case of urgent detentions.
- It can take too long to transfer individuals to hospital and remit them back to prison or an IRC after successful treatment.
- The requirements for IRCs and prisons are different and it would be helpful to have different guidance for both types of establishment.
- Where there is disagreement and a solution cannot be achieved, there needs to be a clear resolution process.

In light of these findings, development of new guidance for IRCs and updates to existing guidance have both been consulted on.

The purpose of this document is to provide an analysis of the consultation responses, which has helped to inform final guidance on the transfer of prisoners and IRC detainees held under the MHA. Please see the appendices for full details of consultation responses and activity.

2. Consultation overview

On 23 May 2019, NHS England and NHS Improvement launched a consultation on the draft documents: 'The transfer and remission of adult prisoners under the Mental Health Act 1983 good practice guidance 2021' and 'The transfer and remission of immigration removal centre detainees under the Mental Health Act 1983 good practice guidance 2021'. The consultation looked in particular at the following three areas in relation to the proposed guidance:

- Increase the timescale for transfers from 14 days to 28 days
- Set a timescale for the remission of prisoners of 14 days
- Introduce a refreshed dispute resolution process

The consultation was published on NHS England and NHS Improvement's consultation hub, where individuals could access the two proposed guidance documents, a supporting consultation document and a consultation questionnaire (which were also available in Easy Read format). They were developed and tested

with partner organisations, health and justice and specialised commissioners and the NHS England and NHS Improvement Health and Justice Clinical Reference Group and Health and Justice Oversight Group, which include service user and third sector representatives.

These documents formed part of a consultation toolkit that included:

- a stakeholder brief and email
- website, intranet and social media copy
- newsletter/bulletin articles for different audiences.

This toolkit was shared with the following stakeholders who were asked to promote and support consultation activity:

- Members of:
  - the NHS England and NHS Improvement Health and Justice Oversight Group
  - Health and Justice Clinical Reference Group
  - Lived Experience Group
  - Specialised Commissioning Adult Secure Clinical Reference Group
  - Mental Health Secure Care Programme Group
- Communications and engagement leads from across the NHS and partner organisations
- Health and justice commissioners and providers
- Specialised commissioning commissioners and providers
- Mental health, learning disability and autism providers
- Department of Health and Social Care (DHSC)
- Ministry of Justice (MOJ)
- Public Health England (PHE)
- Her Majesty's Prison and Probation Service (HMPPS).

The consultation ran until 19 July 2019 and was supported by a range of activity, including events, workshops, focus groups, social media, presentations, briefs, articles and a blog. To support the involvement of those with lived experience of the prison and IRC transfer and remission process (either personally or through a

relative), Tonic Consultancy were commissioned to consult with patients, service users, families and carers.

3. Summary of consultation activity and responses

The consultation received responses from 221 individuals and 20 organisations. Respondents comprised a range of patients, service users, families and friends of service users, as well as clinical and non-clinical staff from across the NHS, criminal justice system (CJS), charities and government organisations. This can be summarised as follows:

- 10 consultation questionnaires and nine consultation responses via email.
- Four emails, including one email endorsement and three emails with comments on the proposed guidance.
- 50 online questionnaires via the consultation hub.
- 135 people attended three consultation events.
- 98 people attended 13 focus groups across the prison and IRC estate and in a hospital.
- 2,550 people visited the consultation page, of whom 2,116 were unique users.
- 1,132 people searched for the consultation on Google and then went on to visit the consultation page. Of this number, 796 were unique users.
- We published a blog from a woman who shared her experience of being imprisoned while mentally ill. The blog, which included a link to the consultation and a call to action to respond, was tweeted and sent to partner organisations to promote. The blog received 232 views.

4. Consultation responses: key themes

A review of responses to both guidance documents, identified the following themes:

- There needs to be an oversight role, with any consequences made clear.
- The timescales need more clarity.
- The guidance relies on external factors, which need to be addressed.
- Communication of information needs to improve.
- Urgent cases need to be given more consideration.
- Support for prisons needs to be considered.
- Remission pathway needs to address issues with transfers to local prisons.
- The dispute resolution process:
  - needs to be included, but who takes responsibility for/undertakes the process (particularly as disputes are not always a clinical issue); and will it be used for remissions too?
  - is too clinically led. How is this going to be funded and who is the expert?
  - should ensure that evidence is provided before internal escalation.

- Common questions:
  - How are resources/planning being dealt with?
  - Should there be a diagram showing how the offender personality disorder pathway works?

Some responses to questions on the proposed IRC guidance mirrored responses to questions on the proposed prison guidance. This evidenced a lack of understanding on the differences between the two types of estate and the individuals within them, as well a need for further clarification within both guidance documents.

The following key themes relate to the IRC guidance document:

- Home Office input needs clarification, particularly in relation to the timescales for information sharing between agencies to ensure MHA 83 requirements are met when a detainee is removed from detention when in a mental health unit.

- Clarity is sought on how the IRC guidance sits with Rule 35 and the Adults at Risk Policy.
- Home Office support is required when an individual is taken off detention and returned to the community, especially when in a secure unit.

5. You said, we did

In considering the consultation responses in the context of the following three proposals, a summary of action taken/being taken is set out in Tables 1-3 on the following pages:

- Increase the timescale for transfers from 14 days to 28 days
- Set a timescale for the remission of prisoners of 14 days
- Introduce a refreshed dispute resolution process.

Table 1: Increasing transfer timescale from 14 days to 28 days

Key theme	Feedback	Action
The timescale needs more clarity	It is not clear what is meant by the initial referral and then first psychiatric assessment. Assessment by the hospital team could be considered to be the second psychiatric assessment and not the first. The guidance suggests that the timescale begins as soon as a referral has been made. Often referrals will be lacking in necessary information. Initial referral may be a different date from when the referral is received/accepted. Who measures this date?	We have clarified when a referral should be undertaken and how this affects the timings of a transfer. We have made it clear that 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. We have noted within the guidance that the 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.
Urgent cases need to be given more consideration	It is important that the two concurrent 14 day periods do not detract from any urgent cases or extend any current waiting times. 14/14 sequential days is not shorthand for 28 days. Urgent cases should be highlighted and must take priority without stopping transfers that are currently being completed within 14 days.	We have provided more clarity on the threshold for the priority of transfer and how urgent cases should be managed. Within the guidance, we have included three key issues that should be considered when assessing the priority of a transfer to ensure that urgent cases take priority. These are: • 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?

Key theme	Feedback	Action
Support for prisons needs to be considered	Prisons need more support to manage patients while in situ.	We are currently identifying a pathfinder site to explore how local secure services could provide assertive in-reach into prisons for those where there is a delay. These findings will help to inform future iterations of transfer and remission guidance.
The guidance relies on external factors, which need to be addressed	There are not enough mental health beds nationally. This is dependent on local mental health bed availability. The challenges with inpatient flow are considerable with difficulties accessing appropriate community support and accommodation impacting length of stay. Carers need to be more involved in the process.	The updated guidance clarifies and strengthens the dispute resolution process, which is intended to address any potential delays in accessing beds in a timely manner and lead to pathway improvements. The guidance sets out the need to include carers where appropriate and to ensure they receive written information to aide their understanding of the processes. A strategic commissioning plan for high secure services will be developed by April 2021. This will describe the clinical model, pathways and capacity required for implementation during 2021/22 and beyond. Currently the strategic direction continues to be maintenance of existing bed capacity, not an increase, albeit with improved geographical distribution. The focus is on improving efficiency, eg appropriate lengths of stay, reductions in transitions. In terms of adult secure services, a secure carers toolkit was co-produced and implemented across all secure adult in patient services. This includes the interface with the CJS, where a referral, assessment and admission takes place from the CJS and in respect to remissions, back to prisons or IRCs.

Key theme	Feedback	Action
The role of the Home Office needs to be clearer in the IRC guidance and we should be working closely with them to implement guidance	Home Office input needs clarification, particularly in relation to information sharing timescales between agencies to ensure MHA 83 requirements are met when a detainee is removed from detention when in a mental health unit. Home Office support is required when an individual is taken off detention and returned to the community, especially when in a secure unit.	We have updated the IRC guidance to clarify the role of the Home Office. This includes strengthened references to clarify when a patient is under NHS responsibility and care, and when the Home Office may intervene due to their immigration status.
Clarity is needed about how the IRC guidance fits with other policies	Clarity is sought on how the IRC guidance sits with Rule 35 and the Adults at Risk Policy.	We have clarified how the IRC transfer and remission guidance aligns with Home Office policies, including a section on what would happen if the Home Office were to be considered as 'adult at risk level 3'.
There needs to be an oversight role for the guidance, with any consequences made clear	There needs to be an oversight role to monitor transfers and remissions with clarification on who is accountable and clarification of pathway responsibility. Clarity is needed on the legal ramifications of pathway delays and the risk of judicial review.	Oversight is carried out by referring and receiving clinicians and the case manager. Referral to transfer times are monitored across England by regional commissioners and through annual benchmarking audits. The MHA review recommends establishing a new designated role independent of health and the CJS to manage the process of transferring people from prison to hospital who require mental health inpatient treatment. This would help ensure that institutional barriers are overcome and the patient's needs are put first.

Table 2: Setting a timescale of 14 days for remission

Key theme	Feedback	Action
Remission pathway needs to address issues with transfers to local prisons	The remission pathway needs to be reviewed rather than just to local prisons and more guidance is needed on how partnership working and Section 117 meetings should be arranged. There are issues with individuals being transferred back to local prisons, rather than the prison they came from.	We are establishing a task and finish group to look into this in relation to the current prison service instruction PSI 40/2011.
Issues with patient after care need to be addressed	The proposed 14 day target does not take into account current issues relating to arranging appropriate aftercare. Individuals would not be discharged into the community if they were subject to a community care pathway as opposed to prison remittal. The 14 day target is likely to be a detriment to aftercare entitlement for prison remittals. The guidance needs to provide a detailed description of the responsibilities of secondary and prison mental health services in ensuring individuals' aftercare entitlement.	The scope of the transfer and remission guidance documents is to advise on the transfer from prisons and IRCs to an in-patient mental health facility and the remittance from this facility back to secure settings. It is not within the remit of the documents to provide guidance for those requiring aftercare in the community.
Communication of information needs to improve	Communication through referral and remission information must improve. Need to have similar wording in both documents.	We have made it clear that communication with a patient's family should be a priority during the transfer and remission process and they should be included in discussions about the patient's care. In addition, we have reviewed both guidance documents to ensure that they are aligned in terms of wording and messaging.

Table 3: Introducing a refreshed dispute resolution process

Key theme	Feedback	Action
Who is responsible for/leading the dispute resolution process?	The dispute resolution process needs to be included, but who takes responsibility for / does this? The dispute resolution process is too clinically led. How is this going to be funded and who is the expert? Disputes are not always a clinical issue.	We have sought to clarify responsibility for the refreshed dispute resolution process in the guidance in response to feedback received, noting that any disputes are required to be enacted regionally through the relevant team.
More clarity is needed about how dispute resolution is going to be used and the escalation process	Is the dispute resolution process going to be used for remissions as well? There needs to be evidence of internal escalation first before going to dispute.	This feedback is being addressed as part of the work being looked at by the task and finish group. This group was developed in response to our consultation on the guidance to look at the remission process. This will inform future iterations of the transfer and remission guidance.

6. Next steps

Following publication of the two guidance documents, we will continue to work closely with a range of stakeholders to ensure they understand the associated requirements and are supported to implement them. To help facilitate this and address some of the themes arising from the consultation, the following is undertaken:

- We are considering the review of the MHA recommendations and taking part in discussions around transfers being completed within the recommended 28 days, the effect this will have on the pathway and accountability and responsibility of any delays in the pathway.
- We are actively involved in partnership discussions around the use of an independent individual to oversee the pathway of transfers and remissions.
- We will continue to commission the annual benchmarking audit of transfers and remissions to evidence the pathway.
- We are developing a remission pilot with the MOJ and HMPPS for three areas to look at prisoners being categorised prior to remission from secure units. This will ensure transfer to the most appropriate prison to continue treatment and reduce the need for remission to the local prison following treatment.
- We will host a series of virtual workshops to allow discussion and review of the guidance and to offer support and resources on their implementation.
- We are involved in the revision of the Who Pays? guidance with a view to clarifying clinical commissioning groups' (CCGs) responsibilities.
- We are revising the high secure estate policy so that it aligns with the guidance transfer times.
- As detailed in the NHS Mental Health Implementation Framework, we intend to mainstream the New Care Models approach for specialised mental health, learning disability and autism services. This will enable local service providers to join together under NHS-led provider collaboratives.

These will be responsible for managing the budget and patient pathway for specialised mental health care services for people who need it in their local area. Ambitions related to this are to:

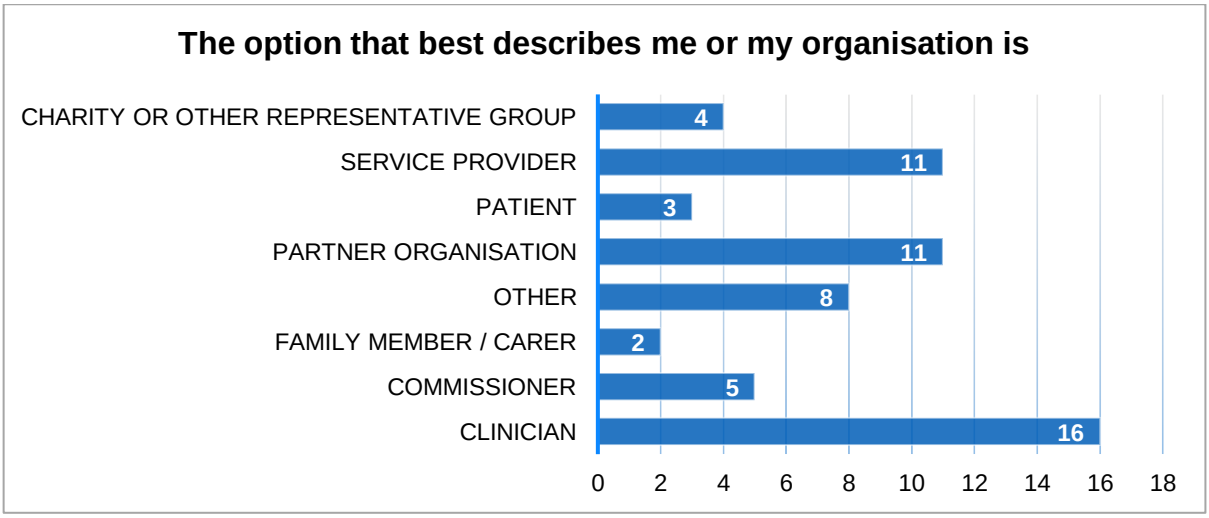
- continue to reduce inappropriate out of area placements, avoidable admissions and lengths of stay
- improve outcomes and experiences for people using services, their families and carers
- ensure that where admissions are required, they are short and close to home in a high quality safe and therapeutic service, with links to the CJS.

7. Appendix 1: Consultation responses

7.1 Who responded to the consultation?

Figure 1 below shows which stakeholders responded to the online questionnaire. Those who responded but did not complete a questionnaire (eg a written response was submitted instead), did not provide this information.

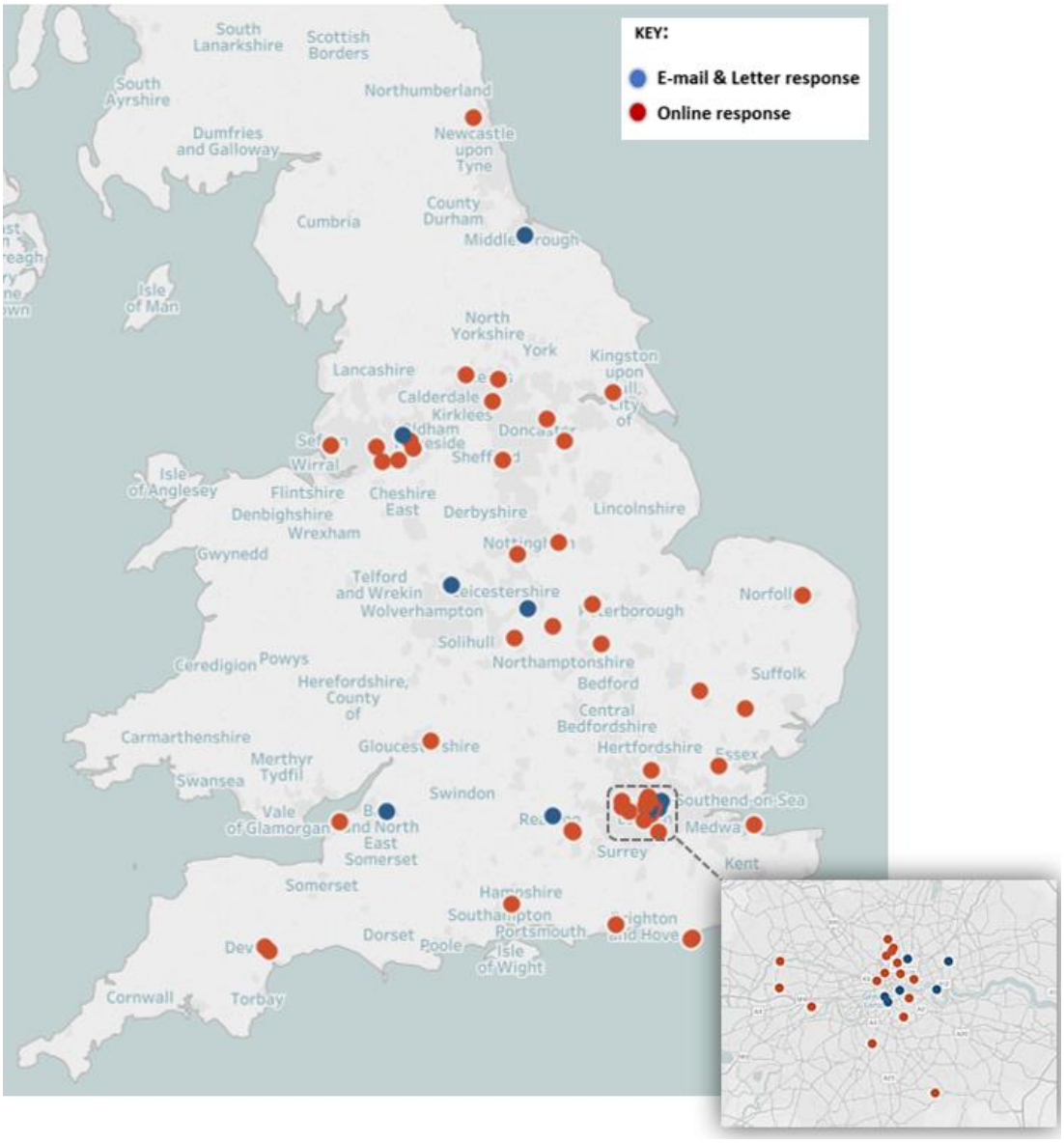
Figure 1: Stakeholder status



7.2 Where are respondents from?

The map below (figure 2) shows where respondents are from. (Map points are based on the centroid of catchment area of the respondent's partial, first part, postcode):

Figure 2: Respondent locations



To support the involvement of those with lived experience of the prison and IRC transfer and remission process (personally or through a relative), Tonic Consultancy were commissioned to hold 13 focus groups in prisons, IRCs and hospitals, with the relevant geographies shown on the following map (figure 3). Please see appendix 2 for the separate consultation report on this activity.

Figure 3: Focus group locations

7.3 Organisations that responded to the consultation

Respondents who said their response was on behalf of an organisation are as follows:

- British Medical Association
- Care UK Healthcare
- Faculty of Forensic and Legal Medicine of the Royal College of Physicians
- MPPS
- Home Office – Immigration Enforcement
- Howard League for Penal Reform
- Independent Monitoring Boards
- Inspirit
- Medical Justice
- Mind
- Nacro
- Offender Health Research Network

- Offender Personality Disorder Programme
- Prison Reform Trust
- Public Health England
- Rethink
- Royal College of Nursing
- Royal College of Physicians
- South London and Maudsley NHS Foundation Trust
- West London Forensic Services
- West London NHS Trust
- Humber Teaching NHS Foundation Trust
- West Hampshire CCG
- HMP Moorland
- HMP Rye Hill
- HMP Gartree
- Change
- Grow
- Live
- South West Regional Secure Services New Care Model.

7.4 Analysis of online responses to the consultation on 'The transfer and remission of adult prisoners under the Mental Health Act 1983 good practice guidance 2020' consultation

There were 56 online responses relating to the proposed guidance for prisons. See figures 4-10 on the following pages for analysis of these responses:

Figure 4: Is the proposed guidance – 'The transfer and remission of adult prisoners under the Mental Health Act 1983: Good practice guidance 2020' – easy to understand?

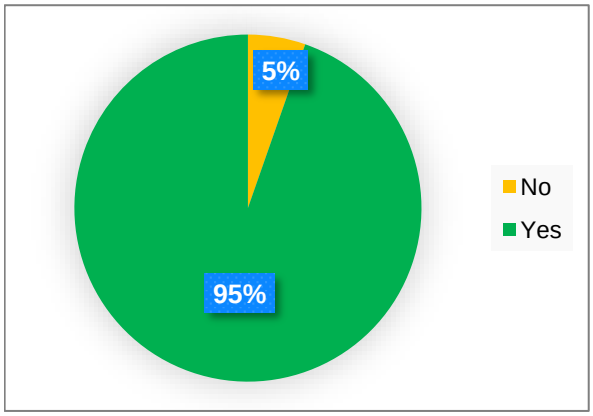
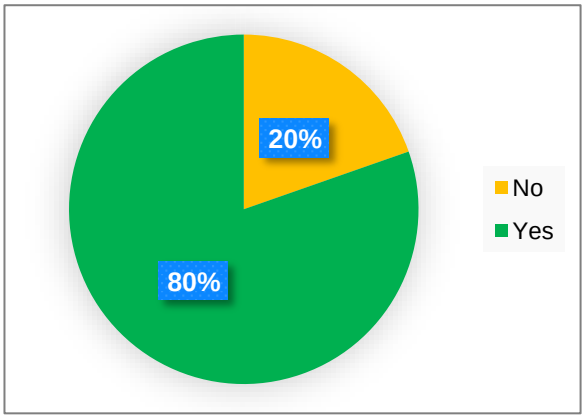


Figure 5: Are the stages of the proposed referral, assessment and transfer process clear?



Of those who replied ‘no’ in figure 5, there were comments about the payment responsibility adding pressure to CCGs.

> “It may be helpful to incorporate three pathways in processes above, namely mood-related, psychosis and personality disorder pathways.”
> **Locum consultant psychiatrist, London NHS Mental Health Trust**

Figure 6: Are the stages of the proposed remission process clear?

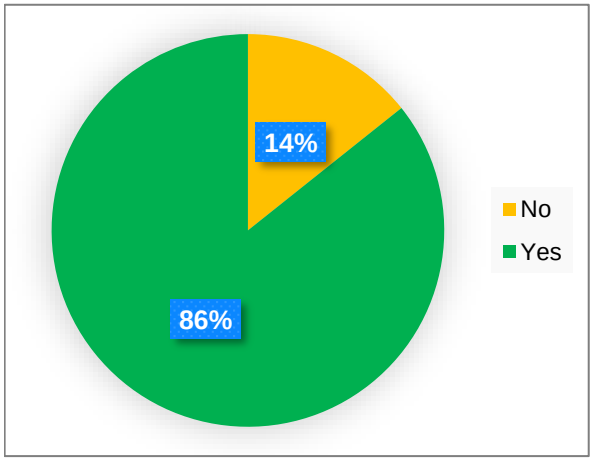
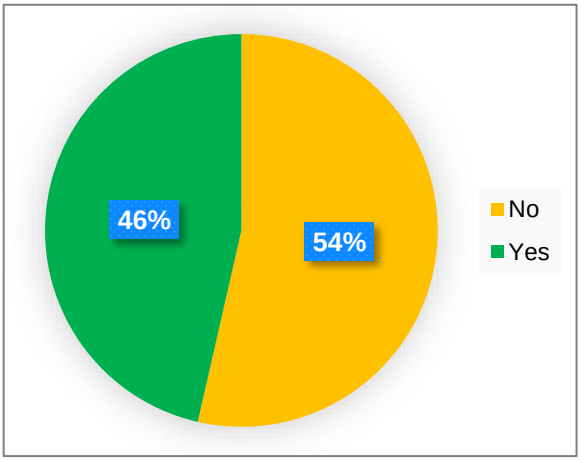


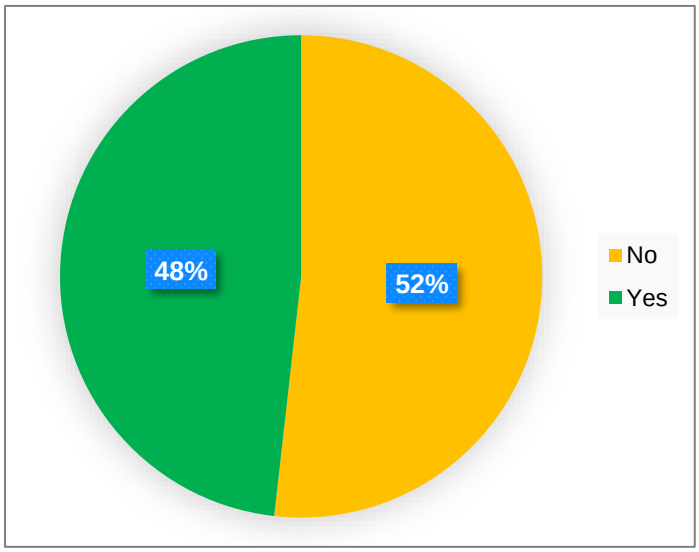
Figure 7: Do you feel that the proposed guidance would support the timely transfer and remission of patients?



In figure 7, while over half of all respondents felt the guidance would not support the timely transfer and remission of patients, many did state there are a number of variables outside of the guidance that would influence its effectiveness – such as commissioning boundaries, resources and assessment.

> “In an ideal world this would be what should happen; however once it has been decided that a person is going to be transferred, it often takes between 3-6 months purely to wait for a bed in secure services.”
> **Partner organisation, HMP Gartree**

Figure 8: Is the proposed new timescale of 28 days appropriate for transfers?

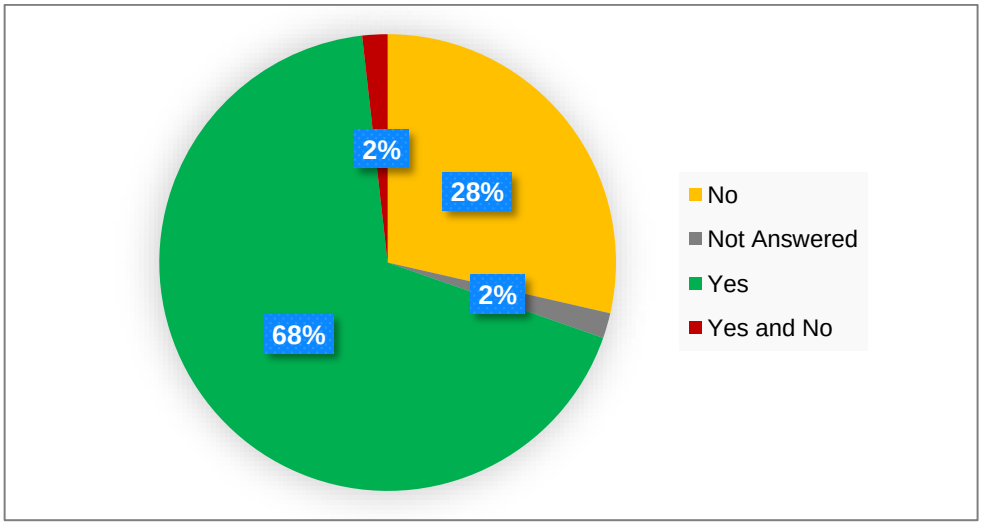


Just over 50% of respondents felt the proposed timescale of 28 days would not be appropriate for transfers. This included a suggestion that resources could be provided in a more appropriate manner to aid the treatment of patient care. There were also concerns that issues outside the scope of the guidance, such as resources, could influence the timescale.

"There are already significant delays before a very ill patient is assessed – this proposal simply extends that delay."
Anonymous, HMP service

"While alignment across different guidance relating to management of mental health in the community is welcome, there is a need to consider the condition of prison incarceration as a potential risk for escalating level of need and a barrier to access specialist nursing and psychiatric care."
Public Health England

Figure 9: Is the proposed new timescale of 14 days appropriate for remission to prison?



While most respondents agreed that 14 days for remission to prison was appropriate, some were concerned that this would not happen in practice.

> "We agreed that 14 days should be appropriate. However, in practice this is not the case. Often there are issues around prescribing."
> **Service provider, Humber Teaching NHS Foundation Trust**

> "This will depend largely upon provision of space at receiving prison and existing pressures on capacity."
> **Royal College of Nursing**

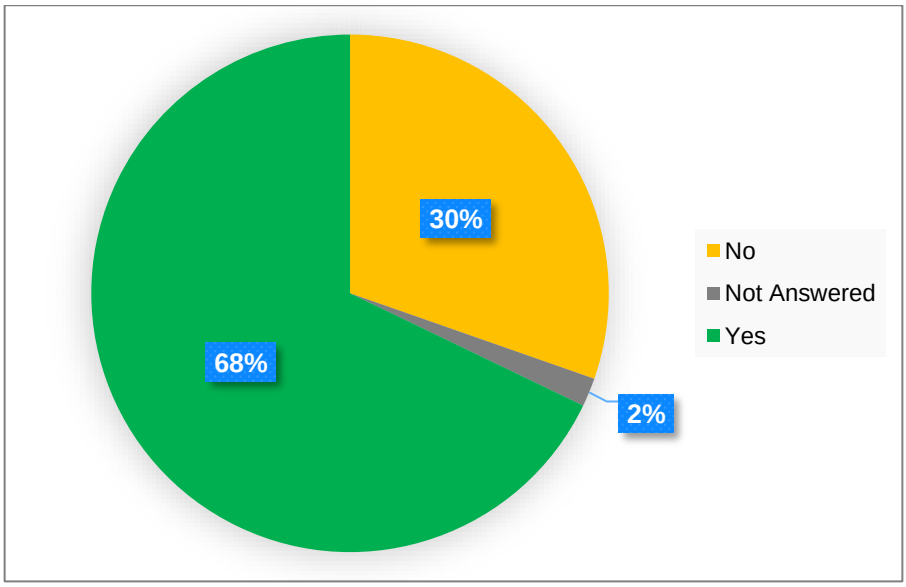
Question: Are there any changes or additions that could be made to the proposed guidance that you feel would help clinicians ensure the safe and timely referral, assessment, transfer and remission of individuals to and from mental health inpatient services?

Eight of the 56 online responses answered this question, with key themes including resource implications of the guidance, both in terms of finding a bed and appropriate remission placement, the importance of a single point of contact being available for all and outreach support for those in prison.

> "The referral must be of sufficient detail to ensure appropriate and timely response. Many medium secure units have their own referral forms in order to ensure all details necessary are provided and these are readily available."
> **Provider, Humber Teaching NHS Foundation Trust**

> "Not to automatically remit to a nearest local."
> **Clinician, long term and high security estate, HMPPs**

Figure 10: Is the proposed dispute resolution process clear?



Question: 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?

Responses were varied – some agreeing that the proposed changes were equitable, others highlighting the effect they could have on the patient on remission and issues with finding a bed.

> "Inevitably there is going to be an impact on the timely admission of patients in other hospitals who aren't in the prison service who are waiting for transfer."
> **Service provider, Humber Teaching NHS Foundation Trust**

> "I think the proposed changes will result in a more equitable service."
> **Partner organisation, location unknown**

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

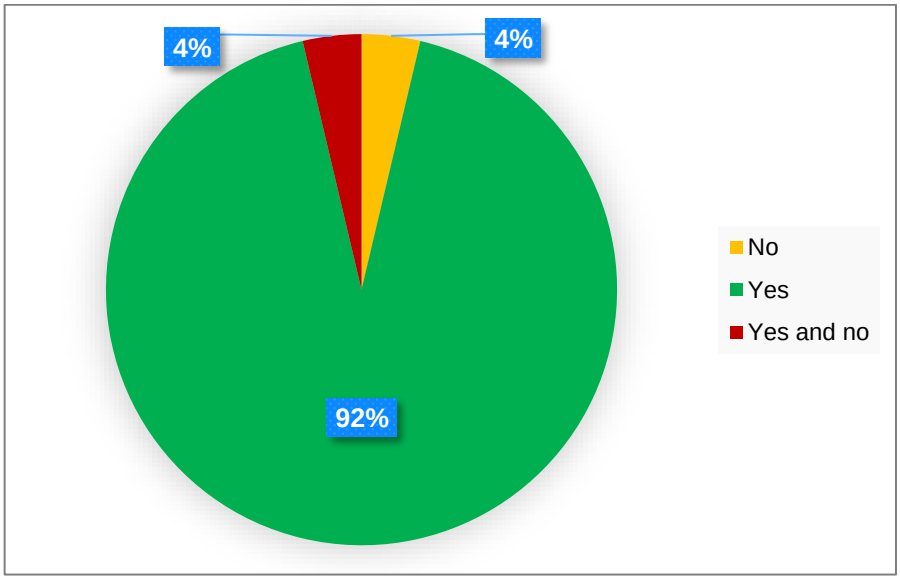
There were six responses to this, most centring on the workability of the pathway through integrated partnership working particularly in relation to S117 meetings and remissions.

> “Successful implementation of the guidance requires a clear commitment to co-operation and sharing responsibility between partner agencies.”
> **Public Health England**

7.5 Analysis of responses to the ‘Transfer and remission of immigration removal centre detainees under the Mental Health Act 1983 good practice guidance 2020’

Twenty-seven responses were received on the proposed IRC guidance.

Figure 11: Is the proposed guidance – 'The transfer and remission of immigration removal centre detainees under the Mental Health Act 1983: Good practice guidance 2019' – easy to understand?



For those who provided comments in this section, there was a call for greater clarity on some of the terms.

> “Does it mean ‘detention under the MHA’ or is this immigration detention (thereby Home Office has decided person does not meet criteria for detention due to being adult at risk level 3/Rule 35(1) criteria). I assume the former, but clarity would be useful.”
> **Clinician, location unknown**

Figure 12: Are the stages of the proposed referral, assessment and transfer process clear?

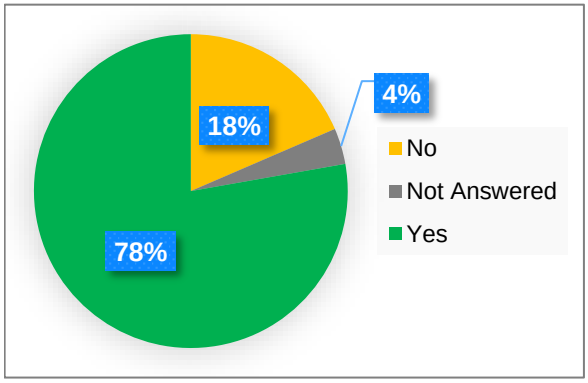


Figure 13: Are the stages of the proposed remission process clear?

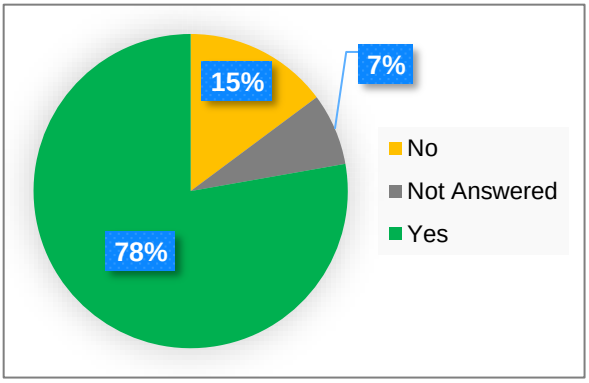
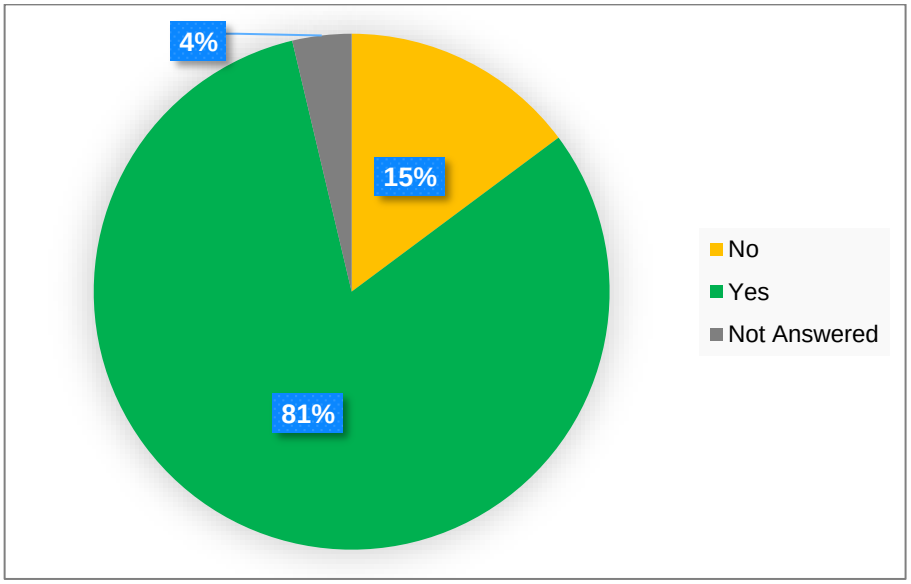


Figure 14: Do you feel that the proposed guidance would support the timely transfer and remission of patients?

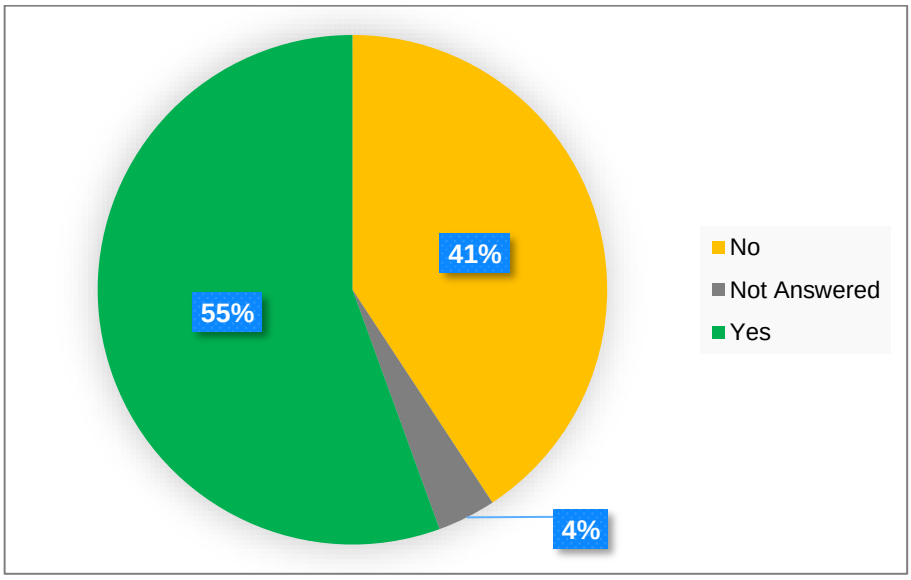


This question (figure 14) generated several narrative responses which mirrored the comments received on the proposed prison guidance; in that, while in principle it should work, there are variables outside of the guidance that influence its effectiveness, such as commissioning boundaries, resources and assessment procedures.

> "The time taken to assess a person for admission to the inpatient facility is a major part of the delay. Sometimes multiple assessments resulting in no decisions to offer a bed or a place are not addressed by this guidance."
> **Anonymous, HMPPs**

"In an ideal world this would be what should happen; however once it has been decided that a person is going to be transferred, it often takes between 3-6 months purely to wait for a bed in secure services."
Clinician, London area

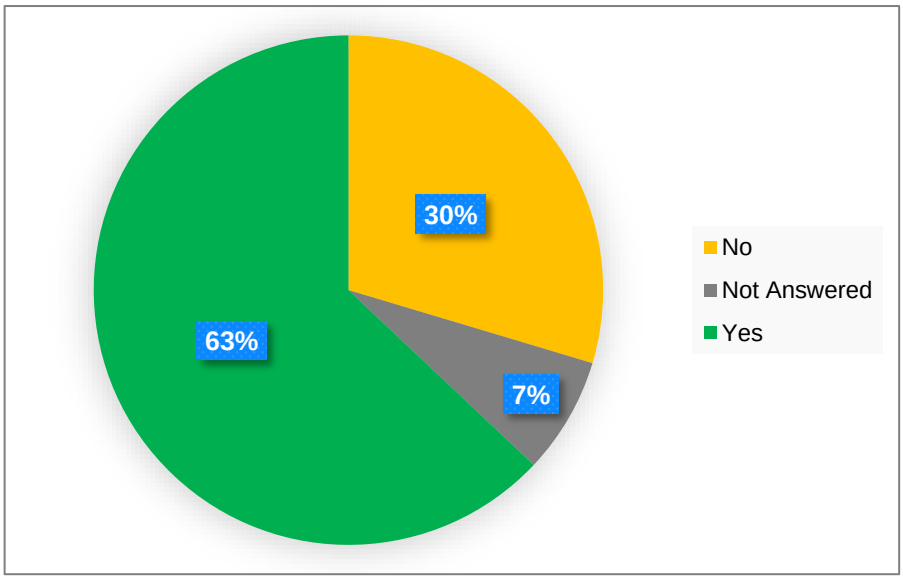
Figure 15: Is the proposed timescale of 28 days appropriate for transfers?



Comments received here mirrored those for the proposed prison guidance, with a couple specific to IRCs:

"It is likely to take longer than 28 days to obtain collateral history related to immigration for cases to be supported by a balanced and considered approach."
Clinician, locum consultant psychiatrist in an NHS mental health trust

Figure 16: Is the proposed timescale of 14 days appropriate for remission to IRCs?



Almost two thirds of respondents believed the proposed timescale of 14 days for remission to IRCs to be appropriate. Of the 30% who answered no, the narrative responses mirrored the comments for the proposed prison guidance.

> "This will depend largely upon provision of space at receiving prison/IRC and existing pressures on capacity."
> **Partner organisation, HMP Gartree**

Question: 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?

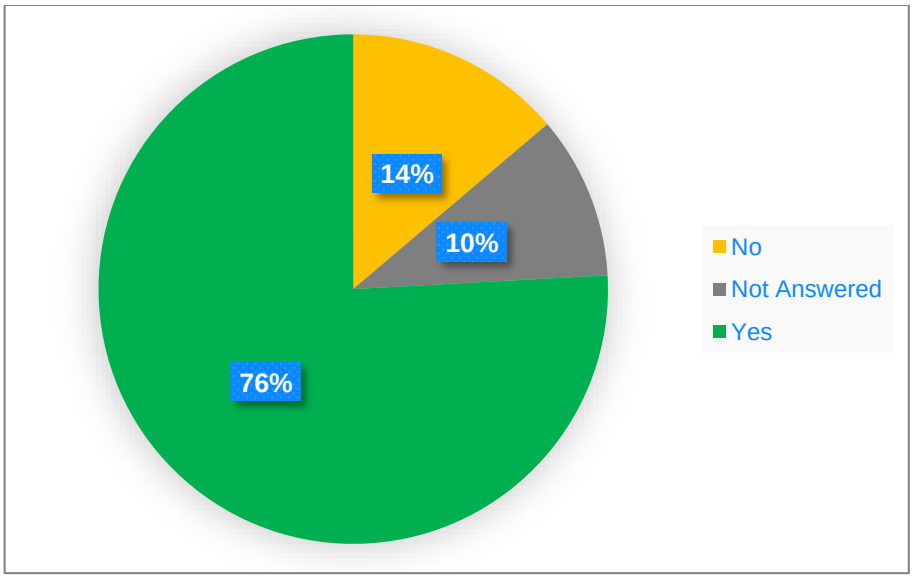
Of the 27 online responses to this question, there were eight comments, the majority of which mirrored those for the proposed prison guidance. The following comments, however, are specific to the proposed IRC guidance:

> "It may take up to approximately two months to implement support and treatment."
> **Locum consultant psychiatrist, location unknown**

> "The National Health Service (NHS) Charges to Overseas Visitors Regulations (Department of Health and Social Care (DHSC)) on implementing the overseas visitor charging regulations, 20 September 2018,

determine that some migrants, visitors and former residents of the United Kingdom must pay for their care when they are in England. However, people in prison and immigration detainees are exempt from charges. It is important to highlight this to NHS trusts when detainees/patients are transferred, to ensure that no charges are mistakenly sought."
Public Health England

Figure 17: Is the proposed dispute resolution process clear?



Question: 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 guidance?

Of the 27 online responses, most replies mirrored the comments for the proposed prison guidance.

"Section 5.1 of the guidance states that 'release from detention can place an inappropriate burden on the inpatient treating unit, as accommodation and support measures need to be found in the community for the person'. This raises a concern that the processes/support available to appropriately resettle individuals moving from an IRC to the community may not be routinely available for those being released from detention from inpatient treatment units potentially resulting in increasing inequalities."
Commissioner, NHS West Hampshire Clinical Commissioning Group

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

A comment received specific to the proposed IRC guidance is as follows:

> "So, does it increase the likelihood of local clinicians having to travel to detention centres across the country to undertake assessments and potentially increase the numbers of in-patients requiring local PICU level support. There is nothing in the proposal that analyses numbers or the resource consequences of the guidance but that may be because there is no expectation that numbers will be affected."
> **Clinician, Cheltenham**

7.6 Responses received at the consultation launch conference

A consultation launch event was held on 23 May 2019 and included two workshops on the proposed prison guidance. This was attended by a total of 72 people, including experts by experience, mental health providers, the prison estate and commissioners. As this was the launch day of the consultation, the documents were first available at this event and so an overview was provided of the proposed guidance and supporting consultation material.

The following three questions were asked during the workshops, with key themes outlined below. Discussion points were captured rather than yes and no answers.

Question: In the proposed changes to the guidance, the timescale for transfers would increase from 14 days to 28 days- is the proposed timescale appropriate for transfers?

- Personality disorder pathway data shows longer waits, especially for women.
- Need further clarification on the clock starting point.
- 28 days is impossible.
- Issues with access assessments need to be addressed which will allow more achievable pathways-multiple assessments, different points of referral and the escalation of security levels due to delays.

- Who will monitor the process and have accountability of the escalation process?
- There are not enough mental health beds.

Question: In the proposed changes to the guidance, the timescale for remission would be 14 days – is this proposed timescale for remission practical?

- Personality disorders were mentioned with the understanding that they have delays in accessing hospital treatment and prison personality services.
- 14 days is too short to allow adequate time to arrange CPA and Section 117 meetings to ensure communication care planning and needs are put into place.
- Discharge planning should start from admission, including offender personality disorder and high secure pathways, with regular updates on treatment progression.
- Need trust between systems.
- It is disappointing that remission to the nearest local prison is still in the guidance – this is a missed opportunity.

Question: In the proposed changes to the guidance there is a refreshed resolution process – is the dispute resolution process workable?

- Need to clarify who the third-party person would be.
- Need to set out an escalation process.
- Three days is an unrealistic time scale.
- Need to clarify whether a paper or face-to-face review would be acceptable.
- Collaboration is important.

One workshop on the proposed IRC guidance was also held, which 16 people attended, including Home Office, commissioner and psychiatrist representatives.

The same three questions were asked during the open table discussions, with key themes outlined below. Discussion points were captured rather than yes and no answers.

- 14/14 sequential days is not shorthand for 28 days. Urgent cases should be highlighted and must take priority without stopping transfers that are currently being completed within 14 days.

- There needs to be better communication when a detention is lifted by the Home Office and this applies for secure units too. This can cause legal difficulties as it affects the MHA detention power and treatment.

- There is limited historical information for detainees when assessments are requested. There needs to be a special arrangement regarding specialised commissioning and health and justice involvement to make sure an assessment is completed within area. Often detainees do not have a GP registration, which puts unequitable load on CCGs and access assessors near IRCs.

7.7 Responses from the first of two national consultation workshops

The first workshop for the consultation was held on 25 June 2019 in London, while the second was held on 12 July 2019 in Leeds. In total, 35 people attended, including experts by experience, charities, commissioners and case managers. This event focused on both proposed guidance documents.

The following questions were asked during the table discussions, with key themes outlined below. Discussion points were captured rather than yes and no answers.

Question: In the proposed changes to the guidance, the timescale for transfers would increase from 14 days to 28 days – is the proposed timescale appropriate for transfers?

- 28 days should be the maximum and this should not increase the current transfer time.
- There should be monitoring of all complex cases and disputes.
- There needs to be clear accountability through transfer and remission pathways.
- Communication lines need to be clear and open.

Question: In the proposed changes to the guidance, the timescale for remission would be 14 days – is this proposed timescale for remission practical?

- 14 days is achievable, but a lot of work is needed to ensure that it can be accomplished.
- Secure units can hold up a transfer if they don't have the right information, but prisons don’t have a say in challenging this.
- Thresholds change dependent on trends.
- Should there be a dispute resolution for going out as well as going in?
- Is it equitable to what you get in the community when people return to prison and the service that they get?

Question: In the proposed changes to the guidance there is a refreshed resolution process – is the dispute resolution process workable?

- Relationships need to improve.
- Who has overall accountability?
- Care planning and remission should start at the point of transfer.
- More patient input is needed in relation to decisions and more education is needed on the facilities available within the prison estate.

8. Appendix 2: Tonic consultation report

The Tonic consultation with patients, prisoners, detainees and families on proposed changes to the guidance can be viewed online here: https://tonic.org.uk/wp-content/uploads/2021/04/Transfer-and-Remission-Report-TONIC.pdf

9. Appendix 3: Consultation log

Date of activity	Type of activity	Stakeholder(s) consulted
23-May-2019	Launch conference (including breakout consultation workshops), London	Families, lived experience, commissioners, providers, health professionals, stakeholders, partners, charities, third sector
23-May-2019	Email notifications sent to key stakeholders, along with the consultation toolkit to support promotion and activity	NHS England Health and Justice Oversight Group, Health and Justice Clinical Reference Group, health and justice commissioners and providers, Health and Justice Lived Experience Group, specialised commissioners, Prison Partnership Board, Prison Reform Trust, Revolving Doors, Royal College of Psychiatrists, MOJ
25 May 2019 onwards	Intermittent tweets posted from national and regional NHS England Twitter accounts as well as personal accounts	Twitter followers
28-May-2019	Article in the Royal College of Psychiatry Prison Quality Network for Prison Mental Health Services ebulletin	Prison quality network members / interested parties
30 May 2019	Article on the consultation on the Brunswick Healthcare review website	Brunswick Healthcare website readers / those with an interest in health and justice and law
30 May 2019	Article on the NHS Networks website and associated weekly newsletter on the consultation	NHS Networks website readers and newsletter subscribers who in the main are health professionals and those interested in health
31-May-2019	Information on the consultation, along with the consultation toolkit sent to policy, communications and media leads at the DHSC for promotion via their networks and channels	DHSC networks and colleagues
31-May-2019	Information on the consultation, along with consultation toolkit to support promotion and activity, sent to the MOJ media team for promotion via their networks and channels	MOJ networks and colleagues

Date of activity	Type of activity	Stakeholder(s) consulted
31-May-2019	Information on the consultation, along with consultation toolkit sent to NHS England regional heads of communication for promotion via their networks and channels, including out to CCGs, trusts, local authorities and third sector / voluntary organisations	CCGs, trusts, local authorities and third sector / voluntary organisations
05-Jun-2019	Article in the NHS England provider bulletin	NHS / independent provider organisations
06-Jun-2019	Article in the NHS England CCG bulletin	CCGs
12 Jun 2019	Article on the health and care update website	Health and Care Update readers
14-Jun 2019	Article in the NHS England In Touch bulletin	Patients, service users, general public and third sector / voluntary organisations
21-Jun 2019	Consultation discussed at the secure service catchment group, East of England specialised commissioning, Cambridge	Commissioners, providers, health professionals, HMPPS
25-June 2019	National consultation workshop, London	Third party, charity, lived experience,
25 June 2019	Tonic consultation workshop at Bracton Centre	Those held with the Bracton Centre
26-Jun-2019	Easy read consultation documents shared	NHS England Health and Justice Oversight Group, Health and Justice Clinical Reference Group, regional heads of communications, health and justice / specialised commissioners and providers, Health and Justice Lived Experience Group, Prison Reform Trust, Revolving Doors, Royal College of Psychiatrists.
27 Jun 2019	Tonic consultation workshop at HMP Swaleside	Those held within HMP Swaleside
27 Jun 2019	Tonic consultation workshop at HMP Elmley	Those held within HMP Elmley
2 July 2019	Tonic consultation workshop at Rampton	Those held within Rampton
2 July 2019	Tonic consultation workshop at HMP Nottingham	Those held with HMP Nottingham
02-July-2019	Presentation on the consultation at the Quality Network Prison mental health - prison conference	Health professionals, commissioners, providers, lived experience

Date of activity	Type of activity	Stakeholder(s) consulted
04-July-2019	Email notification sent to individuals who attended the Bradley Report 10 Years on event in July 2018	Health professionals, commissioners, providers, lived experience, organisations working in the CJS
9 July 2019	Tonic consultation event at Colnsbrook IRC	Those held within Colnsbrook IRC
10 July 2019	Tonic consultation event at Ridgeway	Those held within Ridgeway
10 July 2019	Tonic consultation event at HMP Durham ISU	Those held within HMP Durham ISU
10 July 2019	Tonic consultation event at HMP Birmingham	Those held within HMP Birmingham
10 July 2019	Tonic consultation workshop at Brockfield House	Individuals held within Brockfield house
12-Jul-2019	National consultation workshop, Leeds	Commissioners, providers, health professionals, HMPPS
15-Jul-2019	Lived experience blog promoting the consultation published on the NHS England website and shared via national and regional NHS England Twitter accounts and the daily e-alert	NHS England website readers / followers and emailed to NHS England Health and Justice Oversight Group, Health and Justice Clinical Reference Group, health and justice commissioners and providers, Health and Justice Lived Experience Group, specialised commissioners, Prison Partnership Board, Prison Reform Trust, Revolving Doors, Royal College of Psychiatrists, MOJ
19 July 2019	Tonic consultation event at HMP Wandsworth	Those held within HMP Wandsworth
24 July 2019	Tonic consultation event at Ashworth	Those held within Ashworth
25 July 2019	Tonic consultation event at Wathwood Hospital	Those held within Waltwood Hospital

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