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

Good practice guidance 2021

Version 1, 10 June 2021

Contents

1. Introduction

Prisoners with mental illness, learning disability and autism who require care within inpatient mental health, learning disability and/or autism (MHLDA) services can only be transferred to hospital under the Mental Health Act 1983 (MHA) with the agreement of the Secretary of State for Justice.

Sentenced prisoners are usually transferred under section (s) 47[1] of the MHA and prisoners on remand (including civil prisoners and immigration detainees) are transferred under s48.[2] The Secretary of State for Justice is most likely to add a restriction order under s49 of the MHA.[3]

This guidance sets out the timeframe for completing the assessment, transfer and remission of individuals detained under the MHA to and from MHLDA services and prisons. It applies to adult and youth detainees (sentenced, un-sentenced or on remand) aged 18 and over in the prison estate, including private prisons. There is separate guidance for children and young people in secure settings.[4]

The presenting clinical indication and the clinical risk will determine the priority and pace for the transfer to be completed.

NHS England and NHS Improvement undertook a period of engagement from January 2018 to September 2018, followed by a formal consultation from May 2019 to July 2019. This informed proposed updates to the 2011 guidance, as well as the development of new guidance for immigration removal centres (IRCs).

This updated version has been developed through engagement and consultation with service users, family members, carers, mental health clinicians, partner organisations – including Her Majesty's Prison and Probation Service (HMPPS), the

[1] Section 47 MHA is used to transfer a patient from prison to hospital. This is only for sentenced prisoners.
[2] Section 48 MHA is used to transfer a patient from prison to hospital. This is for remand prisoners, immigration detainees and those imprisoned under Civil Laws.
[3] Sections 47 and 48 can have a restriction direction added to them, known as a 'section 49'. This makes section 47/49 or 48/49. The restriction direction means that there are restrictions on both the patient and the Responsible Clinician (RC). For example, the RC needs to get permission from the Secretary of State for Justice before leave can be granted.
[4] 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

Home Office and the Ministry of Justice (MOJ) – commissioners and providers, as well as third sector organisations.

This guidance supersedes and replaces the guidance on transfers Good Practice Procedure Guide published by the Department of Health (as was) in 2011.[5] It may be useful to refer to the guidance on Prison transfers and remissions to and from mental health inpatient hospitals in relation to COVID-19.

1.1 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.

It relates to the transfer and remission of English patients detained under the MHA to and from English prisons and mental health secure services (from high, medium and low secure services and psychiatric intensive care units [PICUs] in general adult mental health). 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 where there are devolved commissioning arrangements in place, such as NHS-led provider collaboratives (PCs), integrated care systems (ICSs) or equivalents.
  - Note: 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)
- Mental health, learning disability and autism providers
- HMPPS
- Ministry of Justice (MOJ)

[5] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/215648/dh_125768.pdf

- Home Office
- Custodial providers on behalf of the Home Office.

Information about the wider application of the MHA is contained in the Reference Guide to the Mental Health Act 1983 and Mental Health Act 1983: Code of Practice.

The MHA is undergoing reform and at the time of publication the Government has opened a consultation on the White Paper (13 January 2021) in response to the Independent Review of the MHA carried out in 2018. The White Paper accepts the time limit set out by the review (28 days), and agrees that this should be statutory, but does not plan to legislate in relation to this immediately, to allow this document to be properly embedded.

The key elements of health care service improvements set out in the NHS Long Term Plan (LTP) have been integrated throughout this guidance.

2. 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 and NHS Improvement specialised commissioning is responsible for commissioning adult, low, medium and high secure MHLDA health services, in addition to a wider range of other specialised MHLDA services. Arrangements for commissioning MHLDA inpatient services dictate responsibility for agreeing to meet the costs of inpatient treatment. While a local commissioner is responsible for an individual, the MHLDA inpatient service they require may be commissioned under regional or national commissioning arrangements.

Adult secure NHS-led PCs are being developed across England. PCs are groups of providers taking collective delegated responsibility for a specific type (or group) of service specialism(s), through a lead provider for their originating population. They manage the pathway and budget for their population and have responsibilities for quality assurance and service improvement. They are accountable to NHS England and NHS Improvement for decisions made and the quality of care.

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, hospitals and the community for people in contact with the criminal justice system.

The local clinical assessments in response to a referral and access assessment process will recommend the appropriate service (high, medium, low secure) of inpatient care and treatment required (Specialised Secure Mental Health Services Specifications). It is acknowledged that clinical presentation, which determines the level of restrictive environment of the inpatient care, can change during the assessment process and this can be challenging.

CCGs are responsible for commissioning healthcare services for their area. These include adult mental health inpatient services together with adult PICUs. A referral to a PICU will go directly to the service via the CCG.

2.1 Establishing the responsible commissioner

Guidance on determining which NHS commissioning organisation is responsible for arranging and paying for an individual's care in different circumstances is set out in the NHS England and NHS Improvement Who Pays? guidance. It includes the following important principle, which applies to cross-border issues within the UK 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."

In difficult cases, advice can be sought from the national team via england.ResponsibleCommissioner@nhs.net.

3. 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 while 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 while the dispute is resolved or contact england.ResponsibleCommissioner@nhs.net.

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

3.1 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.

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. 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.

The assessment and transfer processes do not stop while 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 if difficulties are experienced by regional NHS England and NHS Improvement health and justice teams, specialised commissioning teams, NHS-led PCs or CCGs.

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 should also be considered and applied where indicated.

Referrers must consider whether services delivered as part of the OPD pathway within prison would meet the need of the patient, rather than referring them to an MHLDA or personality disorder (PD) inpatient service.

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 a 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?

3.2 Timescales for referral, assessment and transfer

These incorporate the time between the first and second psychiatric assessments and the time to transfer. The timescales that the services will work to are described on the following page (table 1). It should be noted that calculations are made in calendar days over a seven-day week.

Table 1: Timescales for referral, assessment and transfer

Day 0	• Once a need for referral for inpatient assessment is identified, establish the responsible commissioner. • Depending on the type of inpatient assessment required, contact relevant adult secure case manager where the prisoner originated from if secure care is indicated; or the relevant CCG if a PICU is felt appropriate. • Keep the patient and their family and/or carers informed about the process and what they can expect to happen throughout each stage. • The prison mental healthcare staff and custodial staff collaborate to gather all the offending history/intelligence, security and medical information to support the process. In cases marked 'extremist', liaise with the joint extremism unit (JEXU) to obtain view on appropriate level of security. • Formal referral sent from assessing prison clinician to responsible MHLDA provider. • **Monitoring of timeframe commences at this point**.
Days 1-2	• The prison mental health team contact MOJ to obtain advice on level of security which may be required, complete first medical report and relevant forms (H1003 or H1004). • Referral information must include the risks and information required in the access assessment specifications for MHLDA inpatient services. If any further information is required following referral, this must be discussed between prison healthcare staff and receiving clinician or organisation to ensure all required information is collated and shared. **Any delay in information sharing does not stop the timeframe**. • All transfer and remission information must be exchanged electronically and only shared using secure email systems. Personal email accounts must never be used.
Days 3-5	• Any disagreements in commissioning responsibility will not delay the timeframe and all referrals need to be accepted without prejudice. • Acknowledgement of referral to be given by receiving unit within three days of referral being sent, not from when received. • Arrangement of access assessment commenced.
Before day 14	• An access assessment or equivalent should be completed by the relevant MHLDA inpatient service, a subsequent medical report generated, and an appropriate bed identified. • If admission to hospital is required, arrangements to be commenced. • If admission is not recommended, **monitoring of timeframe ceases**.
Day 15-25	• Start of day 1 of concurrent 14 day period commences. Monitoring of second timeframe commences. • Arrangements for second assessment made. • First and second medical reports (one must be completed by a s12 approved doctor) are completed to be sent to the mental health casework section (MHCS) with all information and completed documents to enable transfer. The Secretary of State must be satisfied, by reports from at least two registered medical practitioners, that the person is suffering from a mental disorder of a nature or degree that makes it appropriate for them to be detained in hospital for medical treatment, and that appropriate medical treatment is available. The Secretary of State must also be of the opinion, having regard to the public interest and all the circumstances, that it is expedient to direct transfer to hospital.
Before day 28	• The MHCS approves and issues a warrant. ○ Note: There are occasions where the Secretary of State for Justice might refuse such a transfer. This stops the process. • The MHLDA 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. • Admission. Monitoring of time frame stops. • Not to exceed 28 days from referral.

3.3 The referral, assessment and transfer process in more detail

- The prison mental health team should, in parallel to the referral to the responsible MHLDA provider, contact the MHCS at the MOJ to get advice on the level of MHLDA service likely to be required to satisfy the Secretary of State for Justice. At the same time, the H1003 form for Section 47/49 MHA or H1004 form for Section 48/49 MHA and first medical report should be prepared ready to send to the MHCS (Appendices 1 and 2).

- The prison mental health team must work with custodial staff within the prison to gather all offending history/intelligence, security and medical information to support the process. If necessary, and where relevant, liaise with JEXU to obtain a view on the appropriate level of security. 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.

- The introduction of telemedicine licences across the prison estate in England and agreed strategy for use within adult secure services could result, where appropriate, in assessments being carried out using video conferencing.

3.4 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 prison mental health team. This data will be collated and monitored by the regional commissioning team. The White Paper directs the development of a stronger monitoring system once the time limits become statute.

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.

3.5 Problem solving (dispute resolution)

Differences of clinical opinion should be resolved through a discussion between the relevant clinicians.

Any disputes are required to be enacted regionally or through local PCs through the relevant team. This can be all or one of the following: health and justice, specialised commissioning, CCG or an NHS-led provider collaborative. Any referrals for dispute should include a chronological timescale of discussions to date and include all parties involved in the communications.

All decisions to admit a patient are determined by meeting the criteria for detention under the MHA 1983.

The Secretary of State for Justice seeks to balance the needs of the patient to receive treatment against the arrangements made by hospitals. For those potentially delaying prison transfers, it is important to note that the Secretary of State is:

> "under a duty to expeditiously take reasonable steps to obtain appropriate medical advice, and if that advice confirms the need for transfer to a hospital, to take reasonable steps within a reasonable timeframe to effect that transfer".
> [*R (on the application of D) v Secretary of State for the Home Department and National Assembly for Wales*].

3.6 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 Secretary of State is required to ensure the following conditions are met before he can agree to a transfer late in sentence:

- Admission to hospital is an urgent necessity
- It is necessary for the prisoner's own health and/or safety and
- The urgency of need is such that it is not safe to wait until the release date for admission to hospital.

In such circumstances, the prison mental health team should contact MHCS as soon as possible to discuss the case.

The process and timescales are outlined as follows.

Table 2: s47 process and timescales

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 the 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 cannot agree a transfer once the automatic release date has been reached.

4. Implementing remission to prison from mental health, learning disability or autism inpatient service

Continued liaison between the healthcare team at the transferring prison and the inpatient unit should be maintained from admission to ensure progress, treatment and any remission plans are managed, and all parties informed.

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.

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

4.1 Remission process and timescales

The remission process should be completed **within a maximum of 14 days**, as set out on the following page (table 3):

Table 3: Remission process and timescales

Day 0	• Responsibility for co-ordinating, overseeing and managing the remission process is shared between the mental health inpatient service, the receiving prison and the MHCS. • 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. If the patient meets criteria for the Long Term and High Security Estate (LTHSE), this decision is made in collaboration with the LTHSE Specialist Pathways Progression Lead (SPPL). • Decision made by treating multidisciplinary team that conditions have been met for remission back to prison. This is when the timeframe commences
Days 1-2	• Local reception prison contacted to confirm remission requirement with prison mental health team and prison operational staff • If patient was admitted from a LTHSE prison or needs remitting to LTHSE, LTHSE SPPL is contacted to triage suitability for remission into LTHSE. If suitable, LTHSE SPPL liaise directly with responsible clinician to identify health, care and management and progression needs of patient, and assign a remission location • Joint extremism unit (JEXU) contacted via the National Operational Assurance team (NOAT). JEXU liaise with MHCS to ensure placement to appropriate establishment. • MHCS sent completed remission proforma by inpatient unit to advise that the remission criteria has been met • Inpatient MHLDA service invites prison mental health team and family and carers if relevant to a s117 planning meeting. S117 meeting must provide detailed information of management of risk and treatment whilst patient has been in hospital and any information relevant to care provision once returned to prison. This will include members of the psychology department in the event a patient is remitted into LTHSE.
Before day 4	• Prison staff, healthcare and operational and treating unit staff discuss required information and collate to ensure sharing. Any delays in information sharing does not stop the time frame • 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.
Before day 8	• S117 meeting completed with attendance by prison healthcare and operational staff, MHLDA treating staff, patient and family and carers, if appropriate. This will ensure all treatment plans, needs and requirements along with risks are shared and agreed. For patients remitted to LTHSE, the s117 will also be attended by a member of the local psychology team • The MHCS must be informed in writing of confirmation of acceptance by the relevant prison senior operational manager. This can be done via email.
Before day 14	• When the transfer warrant is issued by the Secretary of State for Justice, prisons are expected to plan 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. If for any reason, the nearest reception prison is unable to accept the patient, it is the responsibility of the relevant Governing Governor or Prison Group Director to source an alternative prison willing to accept the patient. • Patient remitted back to identified LTHSE or local prison establishment.

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.

Not all transferred patients detained solely under immigration detention will return to a prison. There are certain instances when changes in circumstances or legal status make the Home Office duty bound to release a patient from immigration detention. The inpatient treating unit should be informed of any decision not to continue immigration detention and any onward management.

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 patient.

In certain instances, it may be deemed appropriate by immigration enforcement officers to consider removal from the UK at the point of release from the inpatient unit without a return to prison. In this instance, it is for immigration enforcement to co-ordinate and manage this process. In such circumstances, they will ensure that this measure is lawful and in the best interests of the individual. This should not cause an imposition on the inpatient unit to hold the patient beyond the period of required treatment or criteria of detention under the MHA. This will occur when the individual is willing to return voluntarily or non-enforced.

Responsibility for co-ordinating, 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 inpatient service provider should alert the prison group director's office for the region the prisoner is returning to.

4.2 Receiving prison

Male patients returning to prison from MHLDA inpatient services will return to the nearest reception prison where the inpatient treatment has been provided. There will be some specific cases where this does not occur; for example, Category A

prisoners must be returned to a Category A prison. Prisoners who meet LTHSE criteria will be remitted to the most suitable LTHSE prison. This will not necessarily be the same prison from which they were admitted.

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

5. 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.

6. 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 and carers to aid understanding.

7. Appendices

Appendix 1: H1003 form

HM PRISON SERVICE
Public Sector Prisons

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: (eg 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 Clinician) who has been approached with a view to providing a place for the inmate (including secretary or hospital admin contact details as relevant)	**NAME:** **EMAIL:** **PHONE:**
Contact details of hospital to which prisoner will be transferred	**Email:** **Phone:**
Security Level (circle correct level) PICU / ACUTE (open)	**HIGH / MEDIUM / LOW / LOCKED /**
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@JUSTICE.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: H1004 form

HM PRISON SERVICE
Public Sector Prisons

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 Clinician) who has been approached with a view to providing a place for the inmate (including secretary or hospital admin contact details as relevant)	**NAME:** **EMAIL:** **PHONE:**
Contact details of hospital to which prisoner will be transferred	**Email:** **Phone:**
Security Level (circle correct level) PICU / ACUTE (Open)	**HIGH / MEDIUM / LOW / LOCKED /**
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@JUSTICE.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: Home Office UKBA form

Home Office
UK Border Agency

Port Ref: DC Ref: IS.91
HO Ref:

United Kingdom Border Agency
Becket House
60-68 St Thomas Street
London
SE1 3QU
Tel: 0207 238 1300 Fax: 0207 238 1413

Details Of Port Responsible For Case (If Other Than Above)		
Port:	Reference:	Tel:

IMMIGRATION ACT 1971/CHANNEL TUNNEL (INTERNATIONAL ARRANGEMENTS) ORDER 1993
NATIONALITY, IMMIGRATION AND ASYLUM ACT 2002
UK BORDERS ACT 2007

IS 91: DETENTION AUTHORITY

IMPORTANT: THIS AUTHORITY MUST BE PASSED ON TO EACH SUCCESSIVE CUSTODIAN AS APPOINTED BY THE IMMIGRATION SERVICE

1. To the custodian. This is to authorise the detention of:

NAME:

D.O.B:

Sex:

Nationality:

Alias:

Is this person claiming to be a minor but is believed to be an adult?

Yes/No

If Yes: The Detainee is to be treated as an adult for detention purposes

Photo

Photograph should be attached

Valid EC/WP/C. of E. held? Y/N/NK

If forged EC/WP/C.of E. held is it readily apparent? Y/N

Last UK arrival*	Date N/K
	Time N/K
	Place N/K
	Flight/Ship/Train N/K
	Carrier Responsible N/K

* Enter only confirmed arrival details or, if none, write "N/K" (Not Known) or"N/C" (Not Confirmed).

Sign _____	Print Name _____	Date _____

2. DETAINEE INFORMATION: To be completed by the Immigration Officer/on behalf of the Secretary of State.

☐ **A passenger who has been informed on arrival or embarkation that he/she is subject to examination/further examination[i] or who has been refused leave to enter the United Kingdom[ii].**

☒ **An illegal entrant or a person to whom section 10 of the Immigration and Asylum Act 1999 applies.[2].**

☐ **A person served with a Notice of Decision to make a deportation order, whose detention has been authorised by the Secretary of State[iii].**

☐ **The subject of a Deportation Order whose detention has been authorised by the Secretary of State[iv].**

☐ **A person recommended for deportation by a court[v].**

☐ **A person or the dependant of a person who has claimed asylum and has failed to provide their fingerprints[vi].**

☐ **A foreign national who has served a period of imprisonment and the Secretary of State is considering whether section 32(5) of the UK Borders Act 2007 applies.[vii]**

☐ **A foreign national who has served a period of imprisonment and the Secretary of State considers that section 32(5) of the UK Borders Act applies (though a Deportation Order is still pending).[viii]**

☐ **A person whose leave to enter has been suspended under paragraph 2A of Schedule 2 to the Immigration Act 1971[ix].Languages spoken:**

_____

Other relevant information (including any particular dietary and religious requirements where known)

_____

_____

_____

3. RISK FACTORS:
It is considered that this detainee may require special monitoring or supervision due to:
(PLEASE STATE CLEARLY IF NO SPECIAL CONDITIONS / RISK FACTORS ARE IDENTIFIED)

☐ **National Security Case.**	☐ **Suicide/Self Harm Risk.**	☐ **Disability.**
☐ **Serious criminal activity.**	☐ **Disruptive behaviour.**	☐ **Pregnancy.**
☐ **Known Associations.**	☐ **Fluid refusal.**	☐ **Other Medical Concerns.**
☐ **Violence Toward Or Assaults On Others.**	☐ **Food refusal.**	☐ **Minor.**
☐ **Escape Attempts.**	☐ **Psychiatric Illness.**	☐ **Other.**
		☐ **None**

Comments: _____

Medication: **(**Provide details of any known medical condition and the type and location of any prescribed medicine)
None

	Place of Detention	Detaining Agency	Time commenced	Date commenced
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
Once rows1 to10 are complete, start a continuation sheet 'IS 91 cont' which must be attached to this form.				

For notes 1 to 9 see next page.

4. TRANSFER RECORD: Row 1 to be completed by the authorising Immigration Officer. Thereafter for completion by *each receiving* Detaining Agency (eg Detaining Agency company, Prison Service, Police).

** Delete/amend as applicable

5. <u>OUTCOME</u> **<u>DATE & TIME</u>**

This action to be completed by custodian at the time of removal or release.

Removed from the UK _____

Released
on Temporary Admission/Release or Restriction Order _____

Released on bail _____

Released - case withdrawn/granted leave _____

6. <u>To be completed with the authority of DEPMU staff only</u>

Risk Factors Reviewed and Withdrawn

On (date/time): _____

Signed: _____

Print: _____

IMPORTANT: To facilitate recovery of detention costs, this document must be completed and sent to:
Detention Costs Recovery Unit, 9th Floor, Lunar House, 40 Wellesley Road, Croydon CR9 2BY
within 48hrs of a detainee being removed or released.

Immigration and Nationality Directorate

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[i] under paragraph 16(1) of Schedule 2 to the Immigration Act 1971
[ii] under paragraph 16(2) of Schedule 2 to the Immigration Act 1971
[iii] under paragraph 2(2) of Schedule 3 to the Immigration Act 1971
[iv] under paragraph 2(3) of Schedule 3 to the Immigration Act 1971
[v] under paragraph 2(1) of Schedule 3 to the Immigration Act 1971
[vi] under section 141 of the Immigration and Asylum Act 1999.
[vii] under section 36(1)(a) of the UK Borders Act 2007
[viii] under section 36(1)(b) of the UK Borders Act 2007
[ix] under paragraph 16(1A) of Schedule 2 to the Immigration Act 1971

Appendix 4: Remission form

Ministry of Justice

HM Prison & Probation Service

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@justice.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.

Cont.

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)[6]

   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 (eg 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 on remission? ☐ Yes ☐ No

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 <u>not</u> have the authority to agree.)[7]

[6] If both criteria can be said to apply, contact the MHCS for advice.
[7] 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.

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

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

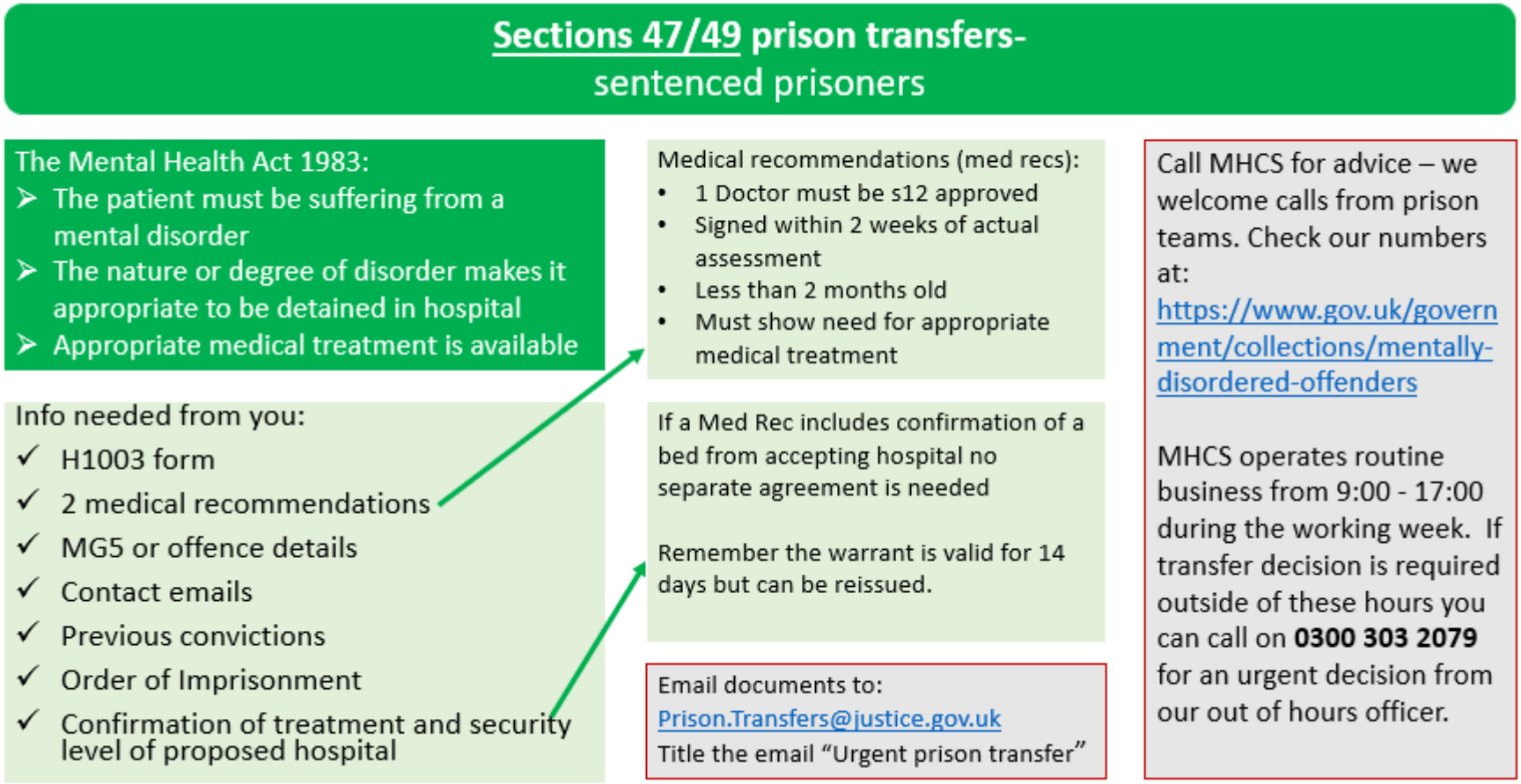
Please give the name and secure email address of the person in the hospital requiring the remission warrant.

Name of Doctor (please print)			
Doctor's signature		Date	

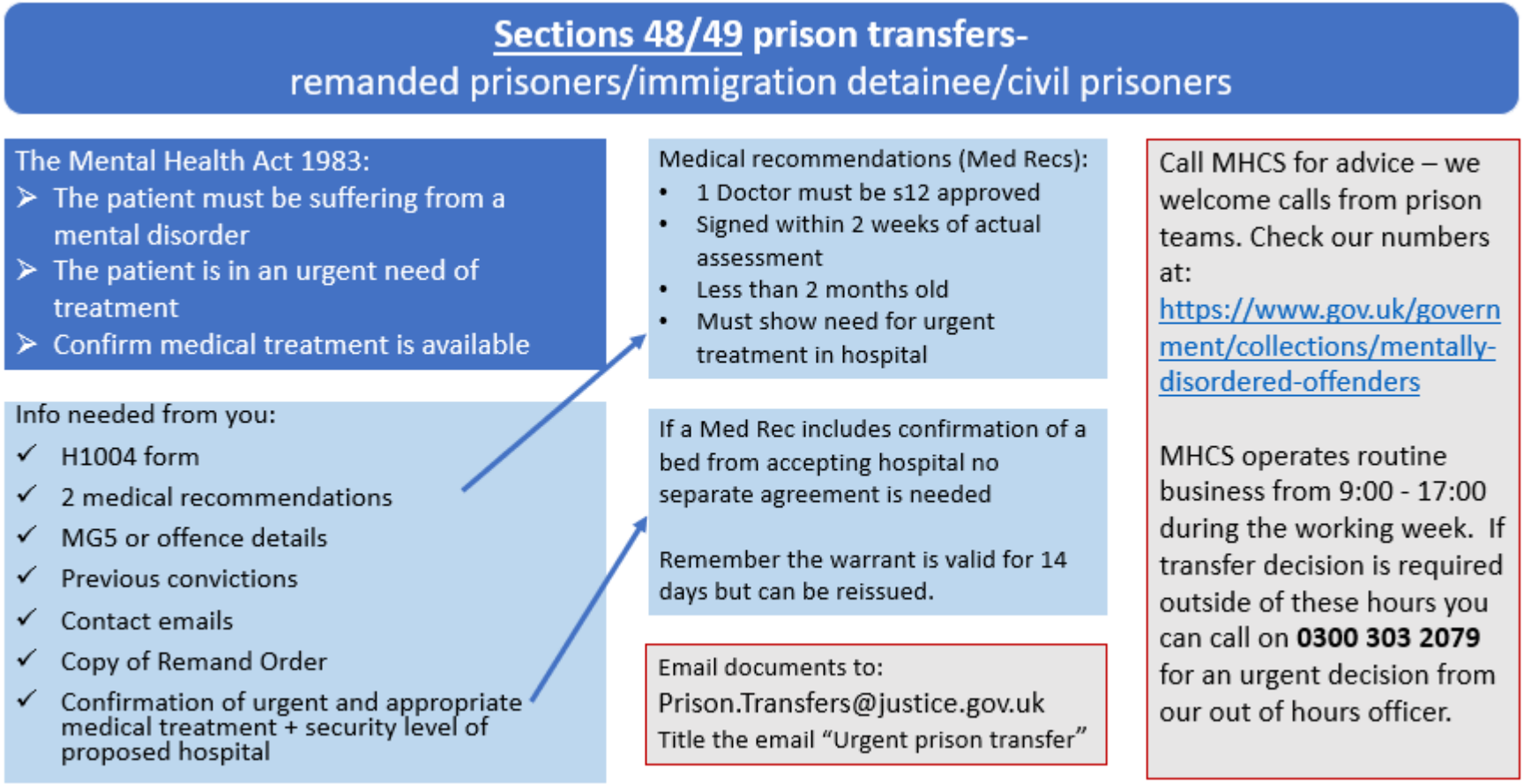
For MHCS use only

1. Ascertain whether prisoner is Cat A (or “restricted status” if under 18 or female). If so, refer to High Security Prisons Group before remission agreed. Copy warrant to HSPG.
2. If patient is under 18, Band 5 to contact Youth Justice Board *before* remission is agreed.
3. Confirm with prison that remission is agreed and obtain email contact. NB: Confirmation must be from the prison, not from Health Care or Psychology Department.
4. If mental disorder is continuing or if there are exceptions or difficulties with this case (including urgency), refer to a Senior Manager (Deputy Head or Head of Team)
5. If Lifer/IPP– copy warrant to PPCS.
6. In Foreign National cases, B3 to notify Home Office when remission occurs – milestone 05A on the case management system.

Appendix 5: Section 47/49 sentenced prisoner transfer



Appendix 6: Section 48/49 remanded prisoner/immigration detainee/civil prisoners transfer



Appendix 7: Prison transfer and time limits

Prison transfer process

Day 1 - 14

Transfer **clock starts** on the day of referral for access assessment

Prison health
- Establish responsible commissioner
- Contact relevant commissioner/assessor
- Gather all offending, security and medical info to support referral
- Arrange first assessment with MHLDA provider
- Follow up referral and make appointment for second assessment if appropriate
- Contact MHCS to obtain advice on level of security and collate completed H1003 or H1004 form and first medical report

MHLDA inpatient service provider
- Arrange visit for access assessment or equivalent for patient service assessment and confirm with prison
- Complete written medical report and send to referrer

First medical assessment. Patient meets MHA criteria. If **NO** prison health provide care. Transfer **clock stops.**

Day 15 - 28

Prison health
-Send MHCS all information required for the transfer with information on bed availability
-Arrange transport with prison to inpatient unit with escorts

MHLDA inpatient service provider
- Complete second medical assessment and written report. Send to referrer
- Confirm bed availability
- Confirm admission date with prison

MHCS
- Receives report with confirmation of appropriate bed and potential admission date
- Makes a decision regarding the transfer
- Approves and issues warrant or refuses and sets out reasons for doing so

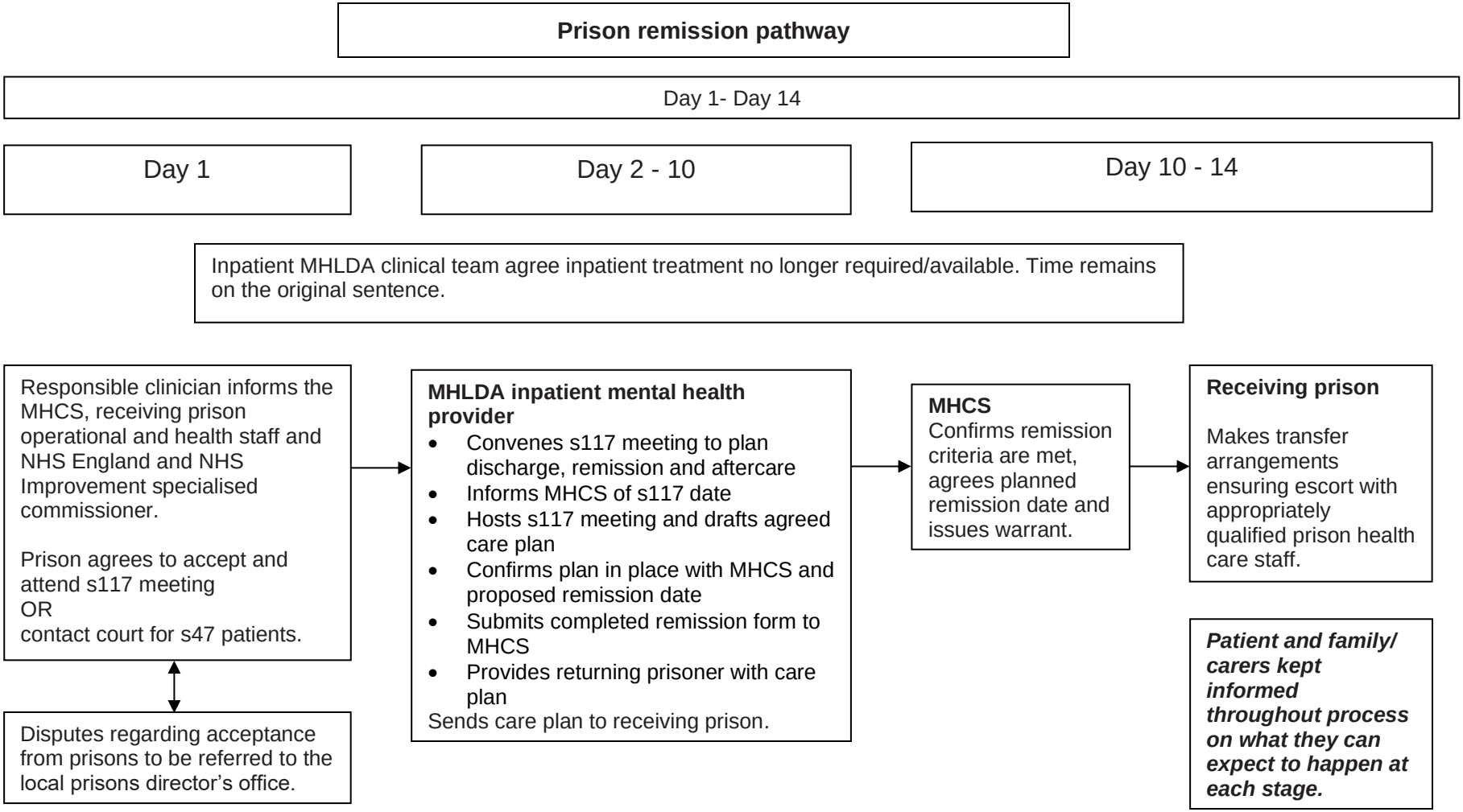
Key notes

Transfer clock does <u>not</u> stop
- During disputes about commissioning responsibility
- Differences of opinion

Transfer clock stops
- If medical assessment concludes detention under Mental Health Act not met
- When patient transferred to inpatient unit

Throughout process keep patient and family, carers informed what they can expect to happen through each stage.

Appendix 8: Prison remissions and time limits



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