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13<sup>th</sup> March 2019

Dear Ms Crawford

**Re: Report to Prevent Future Deaths (Regulation 28) concerning the death of Ms Kirsty Walker who died whilst under the care of HMP Bronzefield on 27 September 2015.**

Thank you for your letter and Regulation 28 Report ("Report") issued on Wednesday 19 December 2018 following the inquest into the death of Kirsty Walker. I would like to express my deep sympathy to Ms Walker's family.

The report raised a concern regarding the average time to transfer a prisoner to a secure hospital under s. 47 of the Mental Health Act 1983 which is in excess of the 14 days envisaged by the 2009 Bradley Report.

The statutory context within which to consider the transfer of prisoners to a mental health facility is provided by the Health and Social Care Act 2012 (HSCA 2012) and the Mental Health Act 1983 (MHA 1983).

Under the HSCA 2012, NHS England has responsibility for the commissioning of healthcare in prisons and the commissioning of adult secure mental health beds, amongst other specialist mental health services. More recently NHS England has devolved responsibility to secondary MH providers in respect of managing budgets and planning for their local populations. These New Care Models (NCMs) comprise of a lead provider arrangement or a collaborative of providers who are responsible for planning the pathway for their local populations in terms of adult medium and low secure services. Clinical Commissioning Groups (CCGs) are responsible for the commissioning of other mental health services, including psychiatric intensive care units (PICU).

Both adult secure mental health beds and PICU beds can be accessed for transferred prisoners who require detention under the MHA 1983 to mental health inpatient services. Such prisoners will be subject to the requirements and effects of sections 47 (and 48) of the MHA 1983.

The provisions of the MHA 1983 do not stipulate a timescale within which prisoner transfers from prison to mental health inpatient services must take place.

Lord Bradley, in his report published in April 2009 following an independent review of the experiences of people with mental health problems and people with learning disabilities within the criminal justice system called on the Department of Health to “develop a new minimum target for the NHS of 14 days to transfer a prisoner with acute, severe mental illness to an appropriate healthcare setting”, and that “this new target should be included as a mandated item in the Central Mental Health contract and included in the next edition of the Operating Framework” (Bradley 2009, p.106).

The Government did not accept these recommendations, but placed them ‘under review’ stating that:

“The Government agrees with the goal behind this recommendation and considers that the time to transfer those with acute severe mental ill health from prison should be reduced to a minimum. The Board will consider what further guidance should be issued to the NHS and criminal justice agencies along with improved commissioning of services to achieve this.”

In April 2011 the Department of Health published the Good Practice Procedure Guide: The transfer and remission of adult prisoners under s47 and s48 of the Mental Health Act<sup>1</sup> (The Good Practice Guide). This Good Practice Guide sets out suggested time limits for assessments and transfers under section 47 and section 48 of the MHA 1983 with transfer to secure mental health hospital within 14 days of the initial request for assessment. Appendix 1 of the guide provides full details of suggested timeframes for each part of the assessment and transfer process.

NHS England has regard to the above Good Practice Guide in relation to transfer times from prison to mental health inpatient services and is now responsible for reviewing the Good Practice Guide. The aim of the review is to provide for more clinically informed timescales for the transfer and remission of prisoners to and from mental health hospital. This revised document has been developed with stakeholders and is currently being prepared in readiness for public consultation which is anticipated to take place early in 2019.

Until a new Good Practice Guide is published, the Good Practice Guidance 2011 is extant pending the completion of the revision process and publication. Those delivering the healthcare service specification within a prison (as well as those providing adult secure mental health and PICU services) will be expected to read their relevant service specification in conjunction with the prevailing Good Practice Guidance in relation to transfer and remission times.

The information below provides details of work being undertaken by NHS England to improve and enhance the pathway to and from prisons to mental health inpatient services.

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<sup>1</sup> <https://www.gov.uk/government/publications/the-transfer-and-remission-of-adult-prisoners-under-s47-and-s48-of-the-mental-health-act>

NHS England is aware that there are instances where the transfer process takes longer than the suggested 14 days and are working with all stakeholders to better understand the issues. Part of this work is to determine how long is appropriate for the process to take from initial identification of the need for a referral to a mental health inpatient service to the point that someone is transferred. Within this timescale it is important to specify key elements of the process, one of these being the time taken from the decision that an inpatient bed is required to the transfer taking place. The suggestion in the recent Independent Review Report of the MHA (1983)<sup>2</sup> describes two new, sequential, time limits of 14 days each (total 28 days):

- i. from the point of initial referral to the first psychiatric assessment;
- ii. from the first psychiatric assessment until the transfer takes place

It is also very important that, where it is evident that there is an urgent clinical need for treatment, that the whole process can be delivered to shortened timelines. This would be determined by the clinical presentation of an individual and the requirement for urgent treatment that could not be provided in the prison.

NHS England is undertaking a number of pieces of work, liaising and engaging with all stakeholders to better understand the issues that can cause delay and to explore how this can be alleviated. These include:

1. An annual audit benchmarking data in relation to the transfer and remission process;
2. Improved performance management through increased and improved collection and analysis of data;
3. A demand and capacity review in relation to adult high, medium and low-secure services;
4. An initiative was proposed in December 2015 and then piloted from 2016, where mental health care providers were encouraged to take on the management of tertiary budgets for adult medium and low secure services and were able to work in partnership with other providers to enable the local system to be responsive and take ownership of the whole pathway including where that related to prison transfers. In February 2018 it was agreed that this approach would be rolled out nationally;
5. The development of pilot sites for intensive community forensic models of care to enable earlier discharge with appropriate levels of support outside secure hospitals;
6. Revised service specifications for adult medium and low secure services, ongoing work to revise the high secure service specification.

All of the work described above will enable better throughput across the whole secure pathway, thus enabling the appropriate capacity to be available when it is required.

Further details of some of these initiatives are set out below.

As part of these work programmes a national annual audit now takes place to establish benchmarking data on the transfer and remission process for prisoners. This is in

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<sup>2</sup> <https://www.gov.uk/government/groups/independent-review-of-the-mental-health-act>

addition to local audits undertaken by NHS England regional commissioners. The last audit was published on 16th November 2018 and can be seen here:

<https://s3.eu-west-2.amazonaws.com/nhsbn-static/Other/2018/Data%20Transfers%20and%20Remissions%20Census%20Report.pdf>.

The next audit is currently underway, based on a census date of 28 February 2019. It is anticipated that the report will be available by the end of May 2019.

In respect to the improved performance management and capability that is being developed in this area, good practice examples relating to the pathway between prisons and respective mental health inpatient services are being identified in some parts of the country and processes to disseminate and share this information nationally is a specific focus.

Another example of good practice is the development of a prison transfer service within a secure inpatient service. This service focusses specifically on transfers from prison, enabling timely transfers and remission where appropriate to ensure that particular capacity is used exclusively for this patient group.

As above a review of the Good Practice Guidance 2011 has taken place, led by NHS England. The revised guidance will be submitted for public consultation prior to implementation nationally, and will consider the whole process of referral, assessment, transfer and remission.

In relation to adult medium and low secure services specifically, NHS England is conducting a demand and capacity review, ensuring that inpatient services are situated in the correct geographical location, delivering the right type of service in a timely way. These services must be integrated with local pathways and for some, these are community mental health services whilst for others prison services. The reconfiguration of beds sits alongside other ongoing work as described above. The effect of this will be to ensure existing capacity and throughput is optimised.

In relation to high secure services, a similar demand and capacity review is being undertaken as part of strategic commissioning work. This review is in its early stages and NHS England aims to publish the results during 2019/20.

The above initiatives are already leading to reductions in length of stay in adult secure services and better throughput, which enables the whole system to work more effectively by making better use of available capacity overall, and making the process of transfers from prison more timely and efficient. This is in line with the relevant policy direction in terms of the Five Year Forward View (published October 2014), and Building the Right Support for the Learning Difficulties and Autistic Spectrum Disorder population (published October 2015), as well as the recent 'Long Term Plan' (published 7 January 2019).

As it stands the Good Practice Guidance (2011) is extant pending the completion of the revision process and the publication of the new guidance. Those delivering the

healthcare service within a prison (as well as those providing adult secure mental health services) are expected to read the relevant service specification in conjunction with the prevailing Good Practice Guidance in relation to transfer and remission times. It has proven and is further anticipated that the above works and initiatives, alongside the implementation of the new more clinically based guidance, will make the transfer/remission process as a whole more efficient.

I hope the information above addresses the concerns you have raised within your Report and provides you with the assurances that you requested. If you require any further information please do not hesitate to contact me.

Yours sincerely

A handwritten signature in black ink, appearing to read 'S. Powis', written in a cursive style.

**Professor Stephen Powis**  
**National Medical Director**  
**NHS England**