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Mr G Sullivan
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14th February 2019

Dear Mr Sullivan

Report to Prevent Future Deaths (Regulation 28)
Mr Thomas Nicol, HMP The Mount (date of death 25 September 2015)

Thank you for your letter and Regulation 28 Report ("Report") issued on Wednesday 30 November 2018 which was received on Tuesday 4 December 2018 following the inquest into the death of Thomas Nicol. I would like to express my deep sympathy to Mr Nicol's family.

The Report raised a concern regarding the length of time taken to assess prisoners for a mental health in-patient bed and the availability of beds in adult secure hospitals. You acknowledged that this had not contributed to the death of Mr Nichol. However, it had been raised as a concern at the Inquest in relation to future deaths.

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. 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 Mental Health Act 1983 (MHA 1983) to mental health in-patient services. Such prisoners will be subject to the requirements and effects of sections 47 (and 48) of the MHA. The provisions of the MHA do not stipulate a timescale within which prisoner transfers from prison to mental health in-patient services must take place. In addition, NHS England also has regard to the guidance issued by the Department of Health in relation to transfer times from prison to mental health in-patient services (that being the Good Practice Procedure Guide, 2011, hereafter "the Good Practice Guidance 2011"). As Mr Nichol had not been referred by prison mental health services or assessed for a mental health in-patient bed by a secure or PICU service, it is not possible to comment on any specifics in relation to this case. 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 in-patient services.

Since 2016, NHS England and respective stakeholders have been engaged in various multi-faceted programmes of work with the specific intention of improving the mental health pathway and is focused on ensuring timely referral, assessment and access to high quality care, and similarly ensuring that remission back to prison also takes place without delay to enable good throughput. This then allows appropriate capacity within the overall system to be used effectively for those who require this type of mental health care. The work undertaken by NHS England should be understood within the context of the overall process of mental health bed commissioning and recognition that the prison estate is but one source of local admissions at any given time. Therefore, considerable work has been undertaken regarding the structuring of services and improving access to commissioned beds. These programmes of work include the following key initiatives:

1. An annual audit benchmarking data in relation to transfers and remissions;
2. Improved performance management and capability;
3. Demand and capacity service reviews in relation to adult low and medium secure services, an initiative to increase local ownership of the pathway through collaborative commissioning and the development of new forensic community models of care;
4. Demand and capacity service reviews in relation to adult high secure services:
5. Revised service specifications for adult medium and low secure services, ongoing work to revise the high secure service specification, and:
6. Revised integrated service specification for the delivery of mental health services within the prison estate.

Further details of the above 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 of prisoners (this is in additional to local audits undertaken by local commissioners). The last audit was published on 16th November 2018. The next audit is due to commence on 28 February 2019. By way of clarification, the transfer process refers to referral, assessment and transfer. The transfer process data is drawn from those who have been engaged in any or all of these stages. In this regard, some patients can remain in prison to address their MH needs, following their assessment and therefore not all patients will require a transfer as per the MHA 1983, however, the timeliness of such assessments is monitored. Remission data is drawn from those who have been identified by an adult secure mental health hospital as requiring return to prison.

These audits permit scrutiny on a national and local level and have helped to develop a better understanding of any obstacles leading to delays in the timely assessment and if appropriate, transfer and/or remission of prisoners to and from mental health in-patient services. This knowledge is being used to build on best practice and identify areas for further service development. For example, a previous audit led to the examination of the escalation process to be applied regionally and nationally to those persons for whom an assessment and / or referral remained outstanding. The audit indicated that gaps in the information required to facilitate the escalation of care incurred a delay in its processing. As a result, a template was developed confirming

the information that was required as well as presenting it in a complete and meaningful manner to support the escalation process. In so doing, the template allowed the escalation to achieve its intended outcome in a timely manner.

In addition, improved performance management and capability is being developed in this area. Good practice examples relating to the pathway in some parts of the country within prison and respective mental health in-patient services are being identified and processes to disseminate and share this information nationally is a specific focus. For example, a national transfer and remission best practice conference is scheduled to take place on 19 March 2019 which will allow NHS England to present its findings and service expectations to local commissioners and providers alike, particularly in relation to escalation processes. In addition, responsibility for reviewing the Good Practice Guidance 2011 has been passed to NHS England, which is revising this document in order to clarify and standardise the transfer process. The proposed guidance will be submitted for public consultation prior to implementation nationally.

In relation to adult medium and low secure services specifically, NHS England is conducting a demand and capacity review, ensuring that in-patient 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 and for others this will be prison. The reconfiguration of beds sits alongside other new developments, including the piloting of new specialist forensic community models and collaborative commissioning approaches with much more emphasis on local ownership. The effect of this will be to ensure existing capacity and throughput (including remission) is optimised. New specifications for these services were published in March 2018 and specialised commissioning teams are working with providers during 2018 / 2019 to implement the new specifications.

In relation to high secure services, a similar demand and capacity review will be undertaken as part of strategic commissioning work and the current specification is being reviewed via the established NHS England processes of co-design and co-production. This review is in its early stages and NHS England aims to publish the results of this review 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 and makes better use of available capacity overall. This is, of course, 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 recently published ‘Long Term Plan’ (published 7 January 2019).

In March 2018 NHS England published a new integrated prison mental health service specification which significantly revised the previous specifications. It included provision for more flexible mental health services with seven days a week provision to ensure that those in mental health crisis are able to access the appropriate support even at the weekends. It also, for the first time, included the Royal College of Psychiatrists Quality Network for Prison Mental Health Services (QNPMHS) standard for mental health care in prisons. These standards were written with mental health

service providers within prisons to drive up standards overall and naturally complement and support the further work being undertaken to improve transfer times. This specification is currently being implemented nationally, with over sight from the NHS England Health and Justice Oversight Group. All prisons are expected to be compliant with the new specification from April 2019.

The prison mental health service specification also requires the healthcare provider to have local transfer and remission navigator functions (that is, an identified person with specific responsibility in this regard) to ensure the timely and appropriate transfers of mental health care to mental health hospitals are undertaken in a co-ordinated way.

As referred to above, NHS England now has responsibility for reviewing the current Good Practice Guidance 2011 (originally published by Department of Health), entitled '*The transfer and remission of adult prisoners under s47 and s48 of the Mental Health Act: A good practice procedure guide'* (April 2011). 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. This will take into consideration the report into the Independent Review of the MHA, published in December 2018. The Independent Review of the MHA recommends two statutory timeframes for the first assessment and transfer of patients under the MHA 1983. Fourteen days are recommended for assessment from the first point of identification of the need to transfer the patient. Fourteen days are also recommended from the point of assessment to the physical transfer of the patient to a mental health hospital. Until the new guidance 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 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.

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

Yours sincerely

Professor Stephen Powis
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NHS England