



11 June 2009

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Dear Ms Nicholson

Re: draft Short-term Holding Facilities Rules

Thank you for your email of 27 May and the appended further revision of these draft Rules.

Whereas the more confusing of the errors in the draft upon which we had offered comments in April have been amended, there remain errors that could usefully be corrected. For example, the definitions in Rule 2 (Interpretation) are not wholly in alphabetical order – *'healthcare professional'* and *'manager'* could usefully be relocated within the Rule so as to ensure alphabetical order – and several of the rules continue to make incorrect reference to the numbering of other rules (though it is clear to which rules these references are intended).

Having reviewed this latest draft, we would merely wish to make the following observations in addition to the comments we have previously provided.

Among the Rules which are excluded from operation in relation to holding rooms, the latest draft makes clear what is intended to be excluded in relation to healthcare. We note the exclusion of paragraphs (3) to (7) of Rule 29 (General medical care). For ease of reference, these paragraphs of that Rule are reproduced below :

- (3) The health care professional shall observe all applicable professional guidelines relating to medical confidentiality.
- (4) It is a matter for the health care professional whether or not to consult with other health care professionals.
- (5) Subject to the conditions in paragraph (6) a detained person shall be entitled:
 - (a) to have access to a health care professional; or
 - (b) to have access to a dentist.

other than the health care professional notified under paragraph (2), or those consulted by the health care professional, under paragraph (4).

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- (6) The conditions are—
- (a) the detained person shall pay any expenses incurred;
 - (b) the manager is satisfied that there are reasonable grounds for the request; and
 - (c) the attendance is in consultation with the health care professional notified under paragraph (2).
- (7) Subject to any directions given in a particular case by the Secretary of State, a health care professional selected by or on behalf of a detained person who is party to legal proceedings shall be afforded reasonable facilities and opportunity for examining that detained person in connection with those proceedings.

We do not understand why these provisions should be excluded from operation in holding rooms. Surely obligations in relation to confidentiality and consulting other health professionals are no less applicable in holding rooms than anywhere else. As regards a detained person's access to other health care professionals, is it intended that this should be disallowed and, if so, why? We note that reinstatement of these paragraphs in relation to holding rooms would require that the other revisions to the operation of Rule 29 be reconsidered in the light of references in the provisions set out above to paragraph (2), which is itself excluded from operation by Rule 5(5)(a).

Yours sincerely,

Alasdair Mackenzie
Acting Chair