



# A Department of Health Consultation Paper

*Draft guidance on provisions to deal with  
nuisance or disturbance behaviour on NHS  
premises in England*

**DH consultation - draft guidance on provisions to deal with nuisance or disturbance behaviour on NHS premises in England**

**DH INFORMATION READER BOX**

<b>Policy</b>	Estates
HR / Workforce Management	Commissioning
Planning / Clinical	IM & T
	Finance
	Social Care / Partnership Working

<b>Document Purpose</b>	Consultation/Discussion
<b>Gateway Reference</b>	11698
<b>Title</b>	Guidance on provisions to deal with nuisance or disturbance behaviour on NHS premises in England
<b>Author</b>	Sanjay Mackintosh
<b>Publication Date</b>	12 May 2009
<b>Target Audience</b>	PCT CEs, NHS Trust CEs, SHA CEs, Care Trust CEs, Foundation Trust CEs, Medical Directors, Directors of PH, Directors of Nursing, Local Authority CEs, Directors of Adult SSs, PCT PEC Chairs, NHS Trust Board Chairs, GPs, Emergency Care Leads, Directors of Children's SSs
<b>Circulation List</b>	
<b>Description</b>	The Criminal Justice and Immigration Act 2008 creates a power for NHS staff in hospitals to remove a person they reasonably suspect of committing a nuisance or disturbance on NHS hospital premises. Guidance will provide NHS bodies with a framework in which to use the power of removal and your views are sought on a draft of this guidance.
<b>Cross Ref</b>	<a href="http://www.dh.gov.uk/en/Consultations/Liveconsultations/DH_4130745">http://www.dh.gov.uk/en/Consultations/Liveconsultations/DH_4130745</a>
<b>Superseded Docs</b>	N/A
<b>Action Required</b>	N/A
<b>Timing</b>	<b>Responses are requested by no later than 4 August 2009</b>
<b>Contact Details</b>	Sanjay Mackintosh NHS Counter Fraud and Security Management Service Weston House 246 High Holborn London WC1V 7EX 020 7895 4564 <a href="http://www.dh.gov.uk/en/consultations.index.htm">www.dh.gov.uk/en/consultations.index.htm</a>
<b>For Recipient's Use</b>	

# A Department of Health Consultation Paper

*Draft guidance on provisions to deal with nuisance or disturbance behaviour on NHS premises in England*

Prepared by Sanjay Mackintosh

# Contents

Contents.....	4
Introduction .....	5
Background .....	6
The Respect Campaign.....	6
The 2006 Department of Health consultation .....	6
The Criminal Justice and Immigration Act 2008 .....	7
Commencement Order No. 5.....	7
The consultation.....	8
Consultation questions .....	9
Responding to the consultation .....	10
The consultation process .....	11
Criteria for consultation.....	11
Comments on the consultation process itself .....	11
Confidentiality of information .....	12
Summary of the consultation .....	12
Annex A:     Draft guidance on provisions to deal with nuisance or disturbance behaviour on NHS premises in England	
Annex B:     Consultation response template	

# Introduction

NHS staff and patients deserve to work and receive treatment in an environment which is safe and free from nuisance or disturbance behaviour. Such behaviour disrupts NHS services and diverts the attention of NHS staff from providing the highest standard of care to their patients.

The majority of people who attend NHS hospitals act in a respectful and courteous manner, but a minority create a nuisance or disturbance to NHS staff, which can sometimes lead to serious criminal offences such as assault. NHS staff that experience nuisance or disturbance behaviour can fear for their own safety at work and such behaviour can result in low staff morale and greater absenteeism.

The measures created in the Criminal Justice and Immigration Act 2008 seek to empower NHS staff to deal with this behaviour before it escalates to more serious incidents. The offence of causing a nuisance or disturbance on NHS premises and the power to remove a person reasonably suspected of committing this offence will enable NHS staff to take action as incidents occur.

These measures now need to be implemented and in doing so, guidance is to be made available to authorised staff in NHS bodies on how to use the power of removal.

# Background

## The Respect Campaign

Tackling low-level nuisance or disturbance behaviour sat within the wider context of the Government's Respect campaign, which was led by the Home Office from 2004-2008. The campaign adopted an early intervention approach to dealing with anti-social behaviour, advocating this as a way of preventing such behaviour from escalating to more serious offences such as assault.

Information and statistics collected on violent incidents against NHS staff<sup>1</sup> indicated that the problem of nuisance and disturbance behaviour existed in the NHS. However, there was a lack of information on the nature and scale of the problem, including which parts of the NHS were most affected and who were the main perpetrators, for example patients or non-patients. The Department of Health took steps to address these concerns and propose solutions specific to the problem in the NHS.

## The 2006 Department of Health consultation

In 2006 the Department of Health published the consultation paper 'Tackling nuisance and disturbance behaviour on NHS healthcare premises'<sup>2</sup>. The consultation sought clarity on the problem of nuisance and disturbance behaviour in the NHS and specifically, comments on proposals to tackle this type of behaviour. The public were asked whether creating a criminal offence of causing a nuisance or disturbance on NHS premises with a power for certain NHS staff members to remove a person suspected of committing this offence, was both necessary and appropriate to solve this problem.

Respondents to the consultation indicated nuisance and disturbance behaviour from non-patients and/or visitors to NHS hospitals was a particular problem. Of the 150 respondents to the consultation, 78% supported the move to create a criminal offence and power to remove these people from the premises.

The Department of Health has since taken the information from the consultation and developed provisions to deal with nuisance and disturbance behaviour in the NHS.

---

<sup>1</sup> This information is collected annually from NHS organisations in England by the NHS Business Services Authority, Counter Fraud and Security Management Service

<sup>2</sup> Details of the consultation are available here: [http://www.dh.gov.uk/en/Consultations/Closedconsultations/DH\\_4138711](http://www.dh.gov.uk/en/Consultations/Closedconsultations/DH_4138711)

# The Criminal Justice and Immigration Act 2008

The Criminal Justice and Immigration Act 2008<sup>3</sup> creates provisions to deal with nuisance or disturbance behaviour on NHS premises.

Section 119 of the Act contains the offence of causing a nuisance or disturbance on NHS premises. A person may commit an offence if, without reasonable excuse, they cause a nuisance or disturbance to an NHS staff member on NHS premises, refuse to leave the premises without reasonable excuse and are not on the premises to seek medical advice, treatment or care. The offence applies to NHS hospital premises only and patients cannot commit the offence.

Section 120 of the Act provides authorised NHS staff with a power to remove a person reasonably suspected of having committed the offence in section 119. A person cannot be removed if removal will endanger their physical or mental health.

Section 121 of the Act permits the appropriate national authority (the Secretary of State) to publish guidance about the power to remove in section 120.

## Commencement Order No. 5

This consultation relates to section 121(3) of the Act, which requires the appropriate national authority to consult the public on a draft of the guidance on the use of the power to remove, before it is published. As such, the Criminal Justice and Immigration Act 2008 (Commencement No. 5) Order<sup>4</sup> commenced various subsections of sections 119-121 to enable consultation to begin after 2 January 2009.

---

<sup>3</sup> A copy of the Act is available here: [http://www.opsi.gov.uk/acts/acts2008/ukpga\\_20080004\\_en\\_1](http://www.opsi.gov.uk/acts/acts2008/ukpga_20080004_en_1)

<sup>4</sup> A copy of the commencement order is available here: [http://www.opsi.gov.uk/si/si2008/uksi\\_20083260\\_en\\_1](http://www.opsi.gov.uk/si/si2008/uksi_20083260_en_1)

# The consultation

Guidance issued under section 121 of the Act will provide authorised officers in NHS bodies with a framework in which to use the power of removal. A copy of the draft guidance is available in **Annex A**.

You are asked to read the draft guidance and answer the consultation questions, but also comment more widely on the content, structure, style and layout of the document. Your input will help shape the guidance and ensure it is both relevant and appropriate to the needs of NHS bodies wishing to use the power of removal.

The draft guidance has been prepared with the assistance of professional bodies including MIND, the National Autistic Society, the Alzheimer's Society, the Mental Health Foundation, Rethink, the Health and Safety Executive, the Police Federation for England and Wales and various clinical leads and stakeholders. These individuals and organisations are thanked for their input thus far.

If you would like to comment on the content of the Impact Assessment and/or Equality Impact Assessment (available on the main consultation page), please do so as part of your answer to question 15.

The consultation will last for a period of 12 weeks from 12 May 2009 to 4 August 2009.

# Consultation questions

A template for responding to the consultation is available in **Annex B**.

1. Does the guidance adequately describe nuisance or disturbance behaviour?
2. Does the guidance adequately describe reasonable excuse for causing a nuisance or disturbance?
3. Does the guidance adequately explain what constitutes a refusal to leave and a reasonable excuse for refusing to leave the premises?
4. Does the guidance adequately describe when a person is on the premises to seek medical advice, treatment or care?
5. Are the recommended steps in section 3.1 of the guidance useful, in terms of assessing whether a person should be removed from the premises?
6. Does the guidance adequately explain what considerations should be made when attempting to safely remove a person from NHS premises?
7. Overall, does the guidance make it clear what constitutes an offence and who can/cannot be removed?
8. Do you have any other suggestions on assessing whether a person can be removed, for example an alternative assessment procedure(s)?
9. Does the guidance clearly explain the distinction between 'authorised officers' and 'appropriate NHS staff'?
10. Is the guidance useful, in terms of describing which staff members might be appointed as 'authorised officers' and 'appropriate NHS staff'?
11. Do you think the recommended training requirements are sufficient?
12. Do you have any additional suggestions about how trusts might raise public awareness of the offence and power of removal?
13. Is the guidance helpful in explaining best practice around record keeping for each of those responsible (the NHS body; authorised officer; Local Security Management Specialist)?
14. Overall, do you think the guidance is useful?
15. Do you have any other comments?

# Responding to the consultation

You can submit your response using the template in **Annex B** or using your own format. Please submit your response by one of the following methods:

By post: Sanjay Mackintosh  
NHS Business Services Authority  
Counter Fraud and Security Management Service  
Weston House  
246 High Holborn  
London  
WC1V 7EX

By fax: 020 7895 4700

By email: [CJIAconsultation@cfsms.gsi.gov.uk](mailto:CJIAconsultation@cfsms.gsi.gov.uk)

Responses and comments should reach us no later than **4 August 2009**.

# The consultation process

## Criteria for consultation

This consultation follows the 'Government Code of Practice', in particular we aim to:

- formally consult at a stage where there is scope to influence the policy outcome;
- consult for at least 12 weeks with consideration given to longer timescales where feasible and sensible;
- be clear about the consultations process in the consultation documents, what is being proposed, the scope to influence and the expected costs and benefits of the proposals;
- ensure the consultation exercise is designed to be accessible to, and clearly targeted at, those people it is intended to reach;
- keep the burden of consultation to a minimum to ensure consultations are effective and to obtain consultees' 'buy-in' to the process;
- analyse responses carefully and give clear feedback to participants following the consultation;
- ensure officials running consultations are guided in how to run an effective consultation exercise and share what they learn from the experience.

The full text of the code of practice is on the Better Regulation website at:

<http://www.berr.gov.uk/whatwedo/bre/consultation-guidance/page44420.html>

## Comments on the consultation process itself

If you have concerns or comments which you would like to make relating specifically to the consultation process itself please

**Contact**      Consultations Coordinator  
Department of Health  
3E48, Quarry House  
Leeds  
LS2 7UE

**E-mail**      [consultations.co-ordinator@dh.gsi.gov.uk](mailto:consultations.co-ordinator@dh.gsi.gov.uk)

**Please do not send consultation responses to this address.**

## Confidentiality of information

We manage the information you provide in response to this consultation in accordance with the Department of Health's [Information Charter](#).

Information we receive, including personal information, may be published or disclosed in accordance with the access to information regimes (primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department will process your personal data in accordance with the DPA and in most circumstances this will mean that your personal data will not be disclosed to third parties.

## Summary of the consultation

A summary of the response to this consultation will be made available before or alongside any further action, such as laying legislation before Parliament, and will be placed on the Consultations website at:

<http://www.dh.gov.uk/en/Consultations/Responsestoconsultations/index.htm>