

A joint submission from Medical Justice, Freedom from Torture, Bail for Immigration Detainees, Rainbow Migration, JRS UK, Helen Bamber Foundation and Detention Action and a response from the Home Office

Evidence to the Secondary Legislation Scrutiny Committee submitted jointly by Medical Justice, Freedom from Torture, Bail for Immigration Detainees, Rainbow Migration, JRS UK, Helen Bamber Foundation and Detention Action

5 January 2023

1. Introduction

1.1 Short-term Holding Facilities (STHFs) are places used by immigration authorities for detaining people under immigration powers for short periods, in order to undertake for example security checks or initial processing, or immediately prior to a person’s removal.

1.2 The Short-term Holding Facility (Amendment) Rules 2022 (SI 2022/1345) creates a new category of STHF called a “residential holding room” (RHR).¹ This new type of facility appears to have been created specifically for Manston², the former RAF base where people - including children, pregnant women, survivors of torture, trafficking, and those with serious mental health conditions and other vulnerabilities – who have crossed the English Channel from France or Belgium in small boats are detained and undergo initial processing and security checks.

1.3 Facilities at the Manston site are extremely basic. As a result, the previous normal maximum time limit for detaining people at the site was 24 hours. The changes brought in by the SI quadruples this to **96 hours (4 days)**. It is also possible for the Home Secretary to extend the period for longer, if she deems that “exceptional circumstances” require it.³

1.4 In comparison with other STHFs where people are held beyond 24 hours, **SI 2022/1345 allows key safeguards that would usually apply to be dramatically downgraded for Manston (and any other new sites designated as RHRs) and reduces standards regarding healthcare, access to legal advice, communications and sleeping accommodation.**

1.5 No justification for the legislative changes has been given, beyond the fact that the Home Office has found it “very challenging” to undertake processing at Manston within 24 hours when significant numbers of people arrive within a short period.⁴

1.6 We are gravely concerned by the changes, which will likely result in children and vulnerable adults not being identified in RHRs like Manston, being harmed by their continued detention, and having little access to legal advice in order to understand and challenge their circumstances.

1.7 We are also concerned that these extremely significant changes appear to have been brought in by the Home Office without any consultation whatsoever, and just days before the Christmas recess, thereby reducing the possibility of Parliamentary scrutiny.

1.8 Effective scrutiny has also been inhibited by the limited nature of the information provided in the Explanatory Memorandum, which makes no mention for example, of the appalling conditions in which

¹ [The Short-term Holding Facility \(Amendment\) Rules 2022 \(SI 2022/1345\)](#) at s2(2)

² See [Explanatory Memorandum to the Short-term Holding Facility \(Amendment\) Rules 2022](#) at 7.3

³ [The Short-term Holding Facility \(Amendment\) Rules 2022 \(SI 2022/1345\)](#) at s2(5) (part relating to Rule 6A)

⁴ [Explanatory Memorandum to the Short-term Holding Facility \(Amendment\) Rules 2022](#) at 7.2

people were held at Manston in autumn 2022, in some cases for weeks⁵, nor the death of one man whilst detained at the site, possibly as a result of diphtheria.⁶ The Explanatory Memorandum also does not mention that concerns have been raised about conditions at Manston over several months, including by HM Chief Inspector of Prisons,⁷ the Independent Chief Inspector of Borders and Immigration,⁸ and various parliamentary committees⁹, or that the situation at the site prompted a ‘rapid reaction visit’ by the Council of Europe’s Prevention of Torture and Inhuman or Degrading Treatment or Punishment Committee.¹⁰ Furthermore, it fails to highlight that the government is currently facing legal action over the site,¹¹ including over 100 claims for unlawful detention so far,¹² or that Ministers themselves have admitted that the site was not operating lawfully.¹³

2. Pre-existing rules: Short-term Holding Facility Rules 2018 (SI 2018/409)

2.1 The pre-existing STHF Rules 2018 make provision for the regulation and management of STHFs, including the treatment of detained persons and the conduct and duties of officers in the facility.¹⁴

2.2 The Rules provide for matters such as the admission and discharge of detained persons, their welfare, food, clothing, accommodation, recreation and religious observance, correspondence, visits, health care – including identification of special illnesses and conditions - and any complaints they may wish to make, as well as the use of security measures such as powers of search.

2.3 The Rules also extend to STHF provisions of the Immigration and Asylum Act 1999 relating to those held in immigration detention.

3. Residential STHFs v “Holding Rooms”

3.1 The STHF Rules 2018 create two categories of STHF – residential STHFs and non-residential STHFs, also known as “Holding Rooms”.

3.2 Under the Rules, the normal maximum period of time a person can be detained in a Holding Room is 24 hours.¹⁵ This contrasts with the normal maximum period of time a person can be detained in a residential STHF, which is five days.¹⁶

⁵ [“Watchdog describes unsafe and wretched conditions at migrants processing centre”](#), *The Independent*, 26 October 2022

⁶ [“Manston asylum centre death may have been caused by diphtheria”](#), *The Guardian*, 26 November 2022

⁷ HM Chief Inspector of Prisons (2022) [Report on an unannounced inspection of the short-term holding facilities at Western Jet Foil, Lydd Airport and Manston by HM Chief Inspector of Prisons \(25–28 July 2022\)](#)

⁸ See for example the Independent Chief Inspector’s oral evidence to the Home Affairs Committee on 26 October 2022 in which he told the Committee he had been left “speechless” after a visit to Manston two days previously, and described the site as a “really dangerous situation” where the Home Office was “failing to address vulnerability” and there were “risks there in terms of fire, in terms of disorder, and medically in terms of infection”. Home Affairs Committee (2022) [Oral evidence: Channel crossings, HC 822](#) at Q112 and Q149

⁹ See for example [Letter to Home Secretary on Small-boat Channel crossings and conditions at Manston asylum processing centre, dated 28 November 2022](#). The letter was sent jointly by Rt Hon. Dame Diana Johnson MP (Chair, Home Affairs Select Committee), Joanna Cherry QC MP (Chair, Joint Committee on Human Rights), Rt Hon. Caroline Nokes MP (Chair, Women and Equalities Committee) and Sir Bob Neill MP (Chair, Justice Committee)

¹⁰ [“Conditions at Manston asylum centre prompt torture monitor visit”](#), *The Guardian*, 30 November 2022

¹¹ See for example [“Suella Braverman facing legal action over Manston children safety”](#), *BBC News*, 3 November 2022; [“Border Force union joins legal action over conditions at Manston asylum centre”](#), *The Guardian*, 5 November 2022; [“BID challenges Home Office over access to justice failure at Manston asylum centre”](#), *Bail for Immigration Detainees (BID)*, 7 November 2022

¹² [“Calls for public inquiry into abuses at Manston asylum centre in Kent”](#), *The Guardian*, 4 January 2023

¹³ [“Manston asylum centre not operating legally, concedes minister”](#), *The Guardian*, 3 November 2022

¹⁴ [The Short-term Holding Facility Rules 2018 \(SI 2018/409\)](#)

¹⁵ See [Explanatory Memorandum to the Short-term Holding Facility \(Amendment\) Rules 2022](#) at 6.3

¹⁶ This period can be extended to an absolute maximum of seven days if removal directions are set to remove the person within those following two days. See *ibid*.

3.3 In the expectation that people would be held for relatively brief periods in Holding Rooms, a large number of the Rules that apply to residential STHFs are either disapplied entirely or downgraded ('modified') in relation to holding rooms. For example, unlike in a residential STHF, in a Holding Room there is no obligation to medically screen a person within two hours of admission. Likewise, a key safeguarding procedure in residential STHFs known as the Rule 32 process – which places a duty on healthcare staff to notify the Home Office of any detained people with indicators of torture, suicidal intent or risk of harm caused by continued detention¹⁷ – does not apply in Holding Rooms.

3.4 Other key Rules modified are such that contact with a legal adviser in a Holding Room can be only by telephone rather than in person, and that access to general medical care is only provided if the detained person becomes ill or injured.

3.5 The effect of this disapplication and 'modification' of Rules in Holding Rooms is to significantly downgrade both the safeguards that prevent harm being caused to detained people, and the conditions in which they are held. The apparent rationale for this is that the period of detention in a Holding Room can only be very brief and the risk of harm occurring during this period is therefore reduced.

4. Amending the STHF Rules 2018 – what does SI 2022/1345 do?

4.1 The facility at Manston has hitherto been operating as a Holding Room, and consequently the 24 hour time limit applied to it. In the government's view, however, Manston is a "unique type of facility, distinct from a holding room".¹⁸ No further information is given, however, as to what, if any, features make the site unique. Nonetheless, the government considers that Manston's "unique" nature means that "bespoke rules" are required for it.¹⁹

4.2 As such, the Home Office has laid SI 2022/1345, which amends the STHF Rules 2018 (SI 2018/409) to create a new category of STHF called a "Residential Holding Room" (RHR). It appears that Manston is now designated as an RHR.

4.3 Under the amended Rules, persons may be detained in an RHR for up to 96 hours. This period can also be extended by the Home Secretary if she deems that "exceptional circumstances" require it.

4.4 Like with Holding Rooms, a number of Rules that apply to residential STHFs are either downgraded ('modified') or disapplied entirely for RHRs. We explain these further below.

4.5 No justification has been given by the government for these extremely significant changes other than the fact it has been "very challenging" to undertake processing at Manston within the 24 hour limit when significant numbers of people arrive within a short period²⁰.

5. Rules 32 and 30 – downgrading of clinical safeguards

5.1 Under Rule 32 of the pre-existing STHF Rules 2018, healthcare professionals²¹ at a residential STHF have a duty to notify the manager (and by extension the Home Office) of any detained person:

- (1) whose health is likely to be "injuriously affected" by continued detention or any conditions of detention;

¹⁷ See [The Short-term Holding Facility Rules 2018 \(SI 2018/409\)](#) Rule 32

¹⁸ See [Explanatory Memorandum to the Short-term Holding Facility \(Amendment\) Rules 2022](#) at 7.3

¹⁹ Ibid

²⁰ Ibid at 7.2

²¹ Defined as either a registered medical practitioner or registered nurse. See [The Short-term Holding Facility Rules 2018 \(SI 2018/409\)](#) at Rule 2

- (2) whom they suspect of having suicidal intentions (this would also trigger an Assessment care in detention and teamwork (ACDT) process²²);
- (3) whom they are concerned may have been a victim of torture.²³

5.2 Further to this, Detention services order (DSO) 09/2016²⁴ specifies a formal process that must be followed in relation to Rule 32. For example, it requires that healthcare professionals must notify the Home Office of their concerns via a 'Rule 32 report' and provides the relevant templates and guidance for these.²⁵ The DSO also sets out the process to be followed by the Home Office upon receipt of such a report, including the requirement for the Home Office to consider the report; conduct a review of the person's detention, and take prompt action to release them if appropriate; and to issue a response to the report – both to the detained person in question and their legal representative (if they have one).²⁶ These actions must be completed within a specified timeframe (2 working days of receipt of the report) and in line with the Adults at risk in immigration detention (AaR) guidance.²⁷

5.3 In RHRs, however, Rule 32 is significantly downgraded. Importantly, healthcare professionals in RHRs are only required to identify "any immediate risk to the detained person's health", rather than the three types of risk specified in the unamended Rule 32. It is unclear whether or not the formal process laid out in DSO 09/2016 applies to RHRs. The steps within that process are all vital elements of the Rule 32 safeguard and it is therefore vital that the Home Office clarifies this as soon as possible. The suggestion that detention will be reviewed "as soon as practicable"²⁸ rather than within mandatory timeframes is particularly concerning.

5.4 The modification of Rule 32 reduces its preventive effect and raises the bar for identifying and avoiding a risk of harm. This means that vulnerable people at risk of harm in detention – including victims of torture and trafficking, and those experiencing suicidal ideation and other serious mental health conditions – may not be identified.

5.5 There is consistent and extensive clinical evidence that detention is harmful to mental health. Those most at risk include people with a pre-existing mental illness and those with a history of torture. However, the amended Rule 32 for RHRs does not include a reporting mechanism for those with evidence of torture, thereby getting rid entirely of the process for identifying and safeguarding this highly vulnerable group.

5.6 In addition to these changes, Rule 30 (medical screening) has also been changed such that the medical screening must now be carried out within 24 hours of admission – as opposed to within 2 hours as per the unamended Rule 30 – and even this deadline may be missed if it is not possible due to "exceptional circumstances".²⁹

6. Other Rules downgraded or disapplied

6.1 A number of other Rules are also downgraded or disapplied entirely in respect of RHRs as a result of SI 2022/1345. Thus, unlike in residential STHFs, in RHRs:

- There is **no requirement to ensure that, from within a room used for sleeping, people can communicate with an officer at any time** – in order, for example, to alert the officer that a person is ill or requires help (Rule 13 downgraded)

²² ACDT is the process used to manage individuals in detention who are identified to be at risk of suicide or self-harm. For further information see [Assessment care in detention and teamwork \(ACDT\): detention services order 01/2022](#)

²³ [The Short-term Holding Facility Rules 2018](#) at Rule 32

²⁴ [Detention services order 09/2016: Detention centre rule 35 and Short-term Holding Facility rule 32](#)

²⁵ Ibid at pp.23-26 and p.33-54

²⁶ Ibid at pp.28-31

²⁷ See Home Office (2022) [Adults at risk in immigration detention: version 8](#) (first published 26 May 2016, came into force 12 September 2016. Version 8 published 1 November 2022). For further analysis of the AaR framework, including a discussion of key concerns relating to it, see Medical Justice (2022) [Harmed Not Heard](#)

²⁸ See [The Short-term Holding Facility \(Amendment\) Rules 2022](#) at s2(5) (part relating to Rule 32)

²⁹ See [The Short-term Holding Facility \(Amendment\) Rules 2022](#) at s2(5) (part relating to Rule 30)

- There is **no requirement for there to be separate sleeping accommodation for people of the opposite sex**. This will only be put in place “where possible” (Rule 14 downgraded)
- There is **no requirement for minors or families to be in sleeping accommodation that is inaccessible to unrelated detained persons** (Rule 15 downgraded)
- There is provision for telephone contact with people outside the facility, but it is **unclear whether face-to-face visits are provided for** (Rule 23 downgraded; Rule 48 disapplied)
- There is **no requirement for people to be able to send and receive unlimited correspondence (letters and facsimiles)**, or for the Secretary of State to cover the costs for those who don’t have the necessary funds (Rule 24 disapplied)
- There is **no guarantee that an individual in an RHR can meet with their legal adviser** – individuals are permitted such meetings only “if it is practicable” (Rule 27 downgraded).
- There is **no requirement for people to have access to the internet** (Rule 29 disapplied).

7. Summary

7.1 Taken in combination, the extension of the maximum period of detention with the modification and disapplication of key Rules, constitute a dangerous withdrawal of the safeguards that apply to detained people, and a deeply concerning downgrading of the conditions in which they are held. The changes risk children and vulnerable adults not being identified in RHRs, being harmed by continued detention and having little access to legal advice in order to understand and challenge their circumstances. This carries the further risk that such people will be routed inappropriately through the system, for example they may potentially be routed to further detention and/or fast-tracked through the decision-making process to removal.

7.2 It is also not clear whether other facilities will be designated as RHRs in addition to Manston. If so, it is conceivable that people may be moved from one such facility to another until they find themselves on a plane to Rwanda without ever having proper access to medical or vulnerability screening, or the Adults at Risk process. Bearing in mind the obligations placed on the Home Secretary by the judgment in the case of *AAA and ors* on 19 December 2022³⁰ to give proper regard to the individual circumstances of any person she is considering for relocation to Rwanda, reducing the safeguards that make this possible will result in further flawed decision making.

7.3 These changes are likely to have a particularly negative impact on disabled people, including those who are disabled as a result of their mental illness, and survivors of torture. We are particularly concerned about the impact on women and children, given that the amended Rules extend the period of time during which they can be held without single sex sleeping accommodation or in sleeping accommodation shared with unrelated adults (see part 6 above). Despite this, there is no reference in the Explanatory Memorandum to any Equality Impact Assessment or similar having been carried out in relation to the changes. We note that in the case of Short-term Holding Facility Rules 2018 for example, the government published a Policy equality statement.³¹

³⁰ [AAA and ors v Secretary of State for the Home Department \[2022\] EWHC 3230 \(Admin\)](#)

³¹ Home Office (2018) [Policy Equality Statement \(PES\): Short-term Holding Facility Rules 2018 \(SI 409/2018\)](#)

Further information from the Home Office

Q1: Why is a new category of STHF required? Especially given that the standard detention time limit is very similar to an existing one (96hours/4 days for RHRs, compared to 5 days for Residential STHFs).

A1: More than 43,000 people have crossed the Channel to the UK so far this year. To date, Manston has been operating as a holding room. Consequently, under the Short-term Holding Facility (STHF) Rules 2018, the 24-hour detention time limit (subject to extension in exceptional circumstances) applies to it. However, when there are significant numbers of such arrivals within a short-period, it has proved very challenging to undertake processing and security checks within this 24-hour timeframe. Holding rooms, which are adequate at airports, do not provide sufficient flexibility to manage unexpected and very large numbers of migrants.

Manston is a unique type of detention facility, and so there is a need to provide for a new type of STHF in which migrant arrivals can be processed, with its own bespoke time limit and rules. A residential holding room with a 96-hour limit will allow operational teams sufficient time to process arrivals and complete critical security checks.

While small boats arrivals remain within manageable levels, and staff are able to process individuals within the 24-hours, the majority of the Manston site will continue to operate as a holding room, to which the existing 24-hour detention time limit will apply. However, a residential holding room will provide the required flexibility at this site and will only be used when required by operational needs. In a situation where further time is required to complete initial processing and security checks for an individual, and they are moved from a holding room to a residential holding room at Manston, the period of time spent in the holding room will be taken into account as part of the 96-hour limit. Processing individuals through Manston as quickly as possible and ahead of the 96-hour limit remains the primary objective.

Q2: Why is it appropriate to have some of the rules that a Residential STHF must meet disapplied for an RHR? Again, given the very similar time limits—why does the additional day make a difference to the facilities that need to be available?

A2: As outlined above, Manston is a unique type of detention facility compared to other STHFs, and so there is a need to provide for a new type of STHF in which migrant arrivals can be processed, with its own bespoke time limit and rules.

To reflect the fact that it may be used for a longer period of detention than holding rooms, a residential holding room builds upon and provides more extensive facilities than are currently available in holding rooms at Manston. We are therefore improving on the current standards rather than reducing from the RSTHF standards.

Several of the provisions of the STHF Rules 2018 that do not apply to holding rooms will be modified and/or applied to RHRs. This includes rule 13 (accommodation), rule 14 (sleeping accommodation), rule 15 (families and minors), rule 16 (clothing), rule 18 (hygiene), rule 30 (medical screening) and rule 32 (special illnesses and conditions). Rule 20 (time in open air), and rule 27 (legal advisers) which apply to holding rooms in a modified form will also be amended to applied to RHRs. A number of the STHF rules which are disapplied insofar as holding rooms are concerned will be similar disapplied for RHRs.

It is important to note that the STHF rules that apply to any type of STHF are a minimum standard, and we may go above and beyond these in practice. We are absolutely committed to securing the welfare of all migrants at Manston and the rules that are applied to a residential holding room are in line with Article 3 requirements.

Q3: How did you decide on which rules it was, and was not, appropriate to disapply for an RHR?

A3: As outlined above, to reflect the fact that it may be used for a longer period of detention than holding rooms, a residential holding room builds upon and provides more extensive facilities than are currently available in holding rooms at Manston. The rules that are applied to a residential holding room are in line with Article 3 requirements.

Which of the rules that apply to a Residential STHF do not in fact apply for RHRs?

This is set out in the Short-term Holding Facility (Amendment) Rules 2022. But in summary, the rules that apply to a residential STHF which do not apply to residential holding rooms are:

- Rule 24 (correspondence)
- Rule 29 (access to internet)
- Rule 35 (removal from association)
- Rule 37 (temporary confinement)
- Rule 48 (visitors)

Rule 13 (accommodation), rule 14 (sleeping accommodation), Rule 15 (families and minors), rule 23 (outside contacts), rule 27 (legal advisers), rule 30 (medical screening), rule 31 (general medical care) and rule 32 (special illnesses and conditions) are slightly modified in respect of residential holding rooms.

Q4: How do the rules for (i) RHRs and (ii) Residential STHFs compare to the rights of prisoners?

A4: It is important to note that individuals detained at Manston are not prisoners—they are detained under immigration powers pending initial examination and a decision whether to grant or refuse leave to enter.

Q5: Why was it not more appropriate to make Manston a Residential STHF?

A5: Due to the fact that Manston is a unique type of detention facility compared to other STHFs, we require a flexible estate and detention facilities which can respond to operational pressures and high volumes of arrivals. A residential holding room forms part of the ongoing planning for Manston and gives our hard-working Border Force officers the time they need to do their vital work in processing arrivals and completing initial security checks.

Q6: To what extent do the facilities at Manston need to be improved to meet the rules applicable to RHR?

A6: The majority of Manston will continue to operate as a holding room. However, for the part of the site that is designated as a residential holding room, the facilities at Manston will meet the requirements for residential holding rooms under the STHF Rules and will be certified as appropriate at the time when residential holding rooms are utilised. The safety, security and welfare of staff and detained individuals are of vital importance, and we will continue to make improvements as necessary to ensure the facilities meet the needs of those held for short periods.

Q7: To what additional extent would they need to improve further to meet the Residential STHF standards?

A7: To meet the residential STHF standards, there would need to be overall improvements to infrastructure across the site, more robust security measures and arrangements for visitors etc.

Q8: What processes will be in place at Manston to monitor compliance with the 96-hour limit?

A8: The existing operational process at Manston for monitoring periods of detention will continue to apply, including the prompt service of detention paperwork to the individual along with any periods of detention recorded and monitored in line with the existing methods used to record time spent in detention at Manston.

Q9: The Explanatory Memorandum and your response say that the RHR will apply to Manston (or parts of it). Could it be applied to other sites and do you have any intention to do so?

A9: This new type of short-term holding facility (STHF) was created to provide additional and essential operational flexibility within our detention estate to undertake processing and security checks and manage unexpected and very large numbers of small boat arrivals. Other detained sites could operate as RHRs as long as they meet the required standards set out in the STHF Rules. Given that RHRs were established as a new type of STHF where migrant arrivals can be processed, and Manston is the primary site for this operation, there are no plans to apply RHRs to other sites at this current time.

Q10: What is the current throughput at Manston?

A10: The throughput at Manston for the period October to December 2022 was approximately 10,600 people.

Q11: How often is it expected that the “exceptional circumstances” test that allows someone to be detained for longer than 96 hours will be met? Why is there no absolute maximum, as there is in a Residential STHF?

A11: Neither the STHF Rules, nor the STHF Rules operational guidance, define what constitutes ‘exceptional circumstances’ in this context. This is deliberate, as it would be impossible to capture in one definition all the circumstances in which it may prove necessary to extend someone’s stay in a holding room or RHR beyond the normal maximum. However, it is likely to include, for example, days of unexpected and very large numbers of small boat arrivals, or making arrangements for onward transfer from Manston.

As mentioned in our previous response, RHRs build upon and provide more extensive facilities than are currently available in holding rooms. Under the STHF Rules 2018, someone may be held at Manston in a holding room for up to 24 hours, or longer if authorised by the Secretary of State in exceptional circumstances. No maximum extension period is set out in the STHF Rules, or guidance. Accordingly, for RHRs and under the STHF Rules, someone may be held for a period of not more than 96 hours unless a longer period is authorised by the Secretary of State. As with holding rooms, no maximum extension period is set out in the STHF Rules, or guidance.

It is important to note that in a situation where further time is required to complete initial processing and security checks for an individual, and they are moved from a holding room to a residential holding room at Manston, the period of time spent in the holding room will be taken into account as part of the 96-hour limit.

Q12: What are the possible places for which a detainee will leave Manston? When we talk about a migrant being “processed” within a given time period (24/96 hours/5 days), is this to provide a complete and final decision on their fate and if not what are the next steps?

A12: Individuals usually detained at Manston using our power in paragraph 16(1) of Schedule 2 to the 1971 Act: a power to detain pending the person's initial examination and pending any decision to give or refuse leave to enter. As part of this processing, security checks are completed. Where possible, if an individual claims asylum, registration of the asylum claim, and initial screening may also take place depending on capacity. This is not the full process though. Following the completion of processing, migrants will be dispersed from Manston into either contingency accommodation, their own arranged accommodation with family and friends, or, in some circumstances, to IRCs if further detention is suitable based on the individual's circumstances.

Q13: In an RHR, medical screening must be carried out within 24 hours of admission, rather than within 2 hours in a Residential STHF, and the RHR rule includes the caveat that "except where this is not possible due to exceptional circumstances". Members may be concerned by this in light of the recent diphtheria outbreak. Please expand on why the modification is justified, what health checks are currently undertaken on arrival, and before release, and are there any plans to change this? What would count as "exceptional circumstances" in this context?

A13: To date, Manston has been operating as a holding room under the STHF Rules 2018. Consequently, to reflect the fact that it may be used for a longer period of detention than holding rooms, a RHR builds upon and requires more extensive facilities than are currently available whilst Manston operates as a holding room. By operating part of Manston as a RHR, we will in fact be improving on the current (holding room) facilities that are in place.

The current health checks which are currently undertaken on arrival, are:

- Initial medical screening completed at WJF on arrival which includes temperature checks, visual checks for any injuries/sickness, and any self declared injuries/medical concerns. Voluntary covid testing is also offered to any persons displaying symptoms.
- At induction having arrived at Manston all persons are asked if they have any medical conditions or injuries and if so are referred to the onsite team of medics for treatment. Referrals are made by the medics to the on-site doctors for any minor treatment/medication that can be completed at Manston or to the local hospitals if requiring more complex treatment/medication.
- Any persons identified with serious infectious/contagious conditions are isolated in appropriate facilities on site for the duration of their detention. Any contagious persons are transferred to appropriate facilities when departing from the Manston facility.
- Diphtheria vaccinations are offered to all detained persons at Manston on their departure from the facility.

Within an RHR, the intention will always be to complete this medical screening within 24 hours of admission, however there may be exceptional circumstances where the 24-hour timeline is challenging. As outlined in an above response, what constitutes 'exceptional circumstances' in this context will not be defined, as it would be impossible to capture in one definition the circumstances in which a medical screening may not be possible within 24 hours. However, it is likely to include, for example, days of unexpected and very large numbers of small boat arrivals where there is an increased pressure on healthcare staff, resourcing and facilities at Manston.

It should also be noted that in a situation where an individual is moved into a RHR facility from a holding room facility (all on the same site), they will already have had an initial medical screening prior to entering the holding room, and access to medical staff if required. A further medical

screening upon entry to the RHR will be an additional safeguard given that RHRs may be used for a longer period of detention than holding rooms.

For wider context, RSTHF are relatively small compared to Manston's overall operating capacity. The flow of people into RSTHF is strictly controlled and we are therefore able to guarantee that a medical examination can take place within 2 hours of arrival. However, given the size and nature of Manston as a unique facility and the possibility of unexpected and very large numbers of arrivals, the modification to Rule 30 for RHRs has been designed in a way to securing the welfare of all migrants at Manston whilst ensuring that backlogs are not created, and processing is not delayed.

Q14: On the rules on special illnesses and conditions that apply to people for whom detention could pose a medical risk, may have suicidal intentions or may have been a victim of torture. These appear to be weaker than in a Residential STHF; for example, because an affected person's detention in an RHR must only be reviewed "as soon as practicable", rather than within a mandatory 48-hour timeframe for those in Residential STHFs, and because there is no reporting mechanism for those with evidence of torture. How is this justified?

As outlined above, a RHR builds upon and provides more extensive facilities than are currently available in a holding room at Manston. We are therefore improving on the current standards rather than reducing from the RSTHF standards. Manston is a processing centre for small boats arrivals and there is a balance to be achieved between ensuring it operates as efficiently as possible whilst addressing immediate healthcare and vulnerability concerns for any individuals. If immediate risks to the detained person's health are identified, it will be paramount that a review of the person's detention takes place as expediently as possible. Additionally, processing individuals through Manston as quickly as possible and ahead of the 96-hour limit remains the primary objective.

Q15: Will the 'rule 32 process' set out in Detention services order 09/2016 apply to RHRs?

A15: The rule 32 process set out in the Detention services order (DSO) 09/2016 will be amended for the purposes of RHRs given the modification of the rule.

The modification of Rule 32 of the STHF Rules for an RHR is the below:

Special illnesses and conditions

If during the medical screening carried out in accordance with rule 30 (medical screening), the health care professional identifies any immediate risk to the detained person's health—

- (a) the health care professional must notify the manager of the risk,
- (b) arrangements must be made in accordance with rule 31 (general medical care), and
- (c) the manager must ensure that the detained person's detention is reviewed as soon as practicable."

As this is a new modification of Rule 32 for the purposes of an RHR, the DSO will be amended to reflect this. This work is currently in progress - although the legislation is now in force, there are no STHF facilities currently operating as a RHR.

4 January 2023, 16 January 2023 and 17 January 2023