

NATIONAL HEALTH SERVICE, ENGLAND

The High Security Psychiatric Services (Arrangements for Visits by Children) Directions 2013

The Secretary of State gives the following Directions in exercise of the powers conferred by sections 4(3A)(a), 8 and 273(1) and (4) of the National Health Service Act 2006(a).

Citation, commencement and interpretation

1.—(1) These Directions may be cited as the High Security Psychiatric Services (Arrangements for Visits by Children) Directions 2013 and come into force on 15th July 2013.

(2) In these Directions—

“the 1983 Act” means the Mental Health Act 1983(b);

“the 2006 Act” means the National Health Service Act 2006;

“chief executive” means, in relation to a hospital, the chief executive of the Trust which is responsible for that hospital or that person’s deputy;

“child” means a person under the age of eighteen;

“clinical team” means the multi-disciplinary team responsible for a patient’s treatment, including the responsible clinician;

“executive director” means a member of the provider’s senior management team with executive responsibilities for a hospital at which high security psychiatric services are provided;

“hospital” means a hospital or any part of a hospital which is treated as a separate unit as covered by the definition of “hospital premises” in section 4(4) of the 2006 Act;

“nominated officer” means the officer nominated pursuant to paragraph 3(1)(a) of these Directions;

“parental responsibility” has the same meaning as in the Children Act 1989(c);

“patient” means a patient liable to be detained at a hospital under—

(a) the 1983 Act;

(b) an order of the Crown Court under section 5 of the Criminal Procedure (Insanity) Act 1964(d); or

(c) an order of the Court of Appeal under section 6 or 14 of the Criminal Appeal Act 1968(e);

“provider” means any person who is approved to provide high security psychiatric services under section 4(3)(b) of the 2006 Act;

“relevant local authority” means the local authority in which the child resides;

(a) 2006 c. 41; Section 4 of the National Health Service Act 2006 (“the 2006 Act”) has been amended by section 16 of the Health and Social Care Act 2012 (c. 7) (“the 2012 Act”) and includes the insertion of section 4(3A). By virtue of section 271(1) of the Act, the functions of the Secretary of State under those sections as exercised in making these Directions are exercisable only in relation to England.

(b) 1983 c. 20; the Mental Health Act 1983 (“the 1983 Act”), as amended by the Mental Health Act 2007 (c.12) (“the 2007 Act”).

(c) 1989 c. 41; *See* section 3.

(d) 1964 c. 84. Section 5 was substituted by section 24(1) of the Domestic Violence, Crime and Victims Act 2004 (c.28).

(e) 1968 c. 19. Section 6 was substituted by section 4(1) of the Criminal Procedure (Insanity and Unfitness to Plead) Act 1991(c. 25) and further amended by section 24(3) of the Domestic Violence, Crime and Victims Act 2004 and Schedule 8 to the Criminal Justice and Immigration Act 2008 (c. 4). Section 14 was substituted by section 4(2) of the Criminal Procedure (Insanity and Unfitness to Plead) Act 1991; section 24(3) of the Domestic Violence, Crime and Victims Act 2004 and sections 47 and 149 and Schedules 8 and 28 to, the Criminal Justice and Immigration Act 2008.

“responsible clinician” has the meaning given in sections 34 and 55 of the 1983 Act^(a);
“Trust” means an NHS trust established under section 25 of the 2006 Act or an NHS foundation trust authorised under section 35 of the 2006 Act;
“ward area” means the day rooms, patients’ bedrooms, corridors, toilets, bathrooms, ward kitchens and any other rooms or garden area in the residential parts of the hospital to which the patients have access as a matter of course.

Visits by children

2.—(1) A provider must only permit a patient in a hospital to receive a visit from a child in accordance with these Directions.

(2) Subject to paragraph (4), a hospital must not permit a patient to receive a visit from a child unless—

- (a) the nominated officer has approved the child’s visit in accordance with these Directions; and
- (b) in the case of a patient who is assessed as posing a risk or potential risk of harm to the child, that patient—
 - (i) is the parent or relative of that child; or
 - (ii) has parental responsibility of that child; or
 - (iii) was cohabiting with the parent of that child immediately prior to their detention under the 1983 Act and the child was treated as a member of their household.

(3) In paragraph (2) “parent” means the mother or father, the adoptive mother or father or the stepmother or stepfather of the child, and “relative” means a grandparent, brother, sister, uncle or aunt or cousin related to the child by blood (including half-blood), marriage or adoption.

(4) Paragraph (2) does not apply where an order made under the Children Act 1989 specifies that the child may visit the patient in the hospital.

Procedure for deciding on requests for visits

3.—(1) A hospital must—

- (a) nominate a senior manager to act as the nominated officer to be responsible for overseeing the process of dealing with any request for permission for a child to visit a patient and for deciding whether to approve the visit;
- (b) set up a multi-disciplinary panel to assist and advise the nominated officer in carrying out their responsibilities and reaching decisions on applications; and
- (c) ensure that the nominated officer discharges their responsibilities in accordance with these Directions.

(2) Any request for permission for a child to visit a patient in a hospital must be made in writing by the patient and must be forwarded to the nominated officer.

(3) Except in a case to which paragraphs (11) to (14) or direction 6 applies, the procedure set out in paragraphs (4) to (10) will apply.

(4) The nominated officer must arrange for the patient’s clinical team to carry out the assessment—

- (a) as to whether, in their view, it would be appropriate for the visit to take place having regard to the patient’s offending history (if any), their clinical history and present mental state; and
- (b) in the event that a visit is recommended, of any particular arrangements which would need to be made for a visit by that child to take place.

(a) Relevant amendments were made to section 34 by section 9(1) and (10) and to section 55 by sections 11(1) and (7) of the 2007 Act.

(5) Where following the assessment referred to in paragraph (4)—

- (a) the nominated officer is satisfied that it would not be appropriate for the child to visit the patient, they must refuse the request for a visit, or
- (b) in any other case, the nominated officer must seek the advice of the relevant local authority as to whether it is in the best interests of the child to visit the patient and must send with that request for advice, a copy of the assessment referred to in paragraph (4).

(6) Subject to paragraph (8), on receipt of the advice from the relevant local authority, the nominated officer must decide whether to approve the visit having regard to—

- (a) that advice;
- (b) the assessment referred to in paragraph (4); and
- (c) any other relevant information.

(7) When deciding whether to approve the visit, if the advice from the relevant local authority has been received within the last 12 months, the nominated officer does not need to seek advice again, but should obtain confirmation from the local authority that there has not been any new contact with or concerns raised with the local authority which may affect the nominated officer's decision.

(8) The nominated officer must not approve a visit in any case where the advice from the relevant local authority is that it is not or may not be in the best interests of the child to visit the patient.

(9) If no decision has been reached within eight weeks of the date on which a request for a visit is received from a patient the nominated officer must inform the patient in writing of the reasons for the delay and refer the matter to the executive director of the hospital.

(10) The nominated officer must notify—

- (a) the patient;
 - (b) the parent of the child and any other person with parental responsibility for the child or caring for the child;
 - (c) the child if they are of sufficient age and understanding; and
 - (d) any relevant local authority,
- of the decision and the reasons for that decision in writing.

(11) Subject to paragraph (14), where the patient is assessed as posing a risk or potential risk of harm to the child and that child is not within the categories of relationship set out in direction 2(2)(b), paragraphs (4) to (10) shall not apply and the nominated officer must refuse the request for a visit and notify the patient accordingly.

(12) Subject to paragraphs (13) and (14), where the person with parental responsibility for the child, or in the case of a child subject to a care order the designated local authority in whose care the child is placed under section 31(1)(a) of the Children Act 1989, has not agreed the child may visit the patient, paragraphs (4) to (10) shall not apply and the nominated officer must refuse the request for the visit and notify the patient accordingly.

(13) Save in the case of a child subject to a care order, where there is more than one person with parental responsibility for the child, it is the person with parental responsibility with whom the child is living who must agree to the visit.

(14) In any case where an order made under the Children Act 1989 specifies that the child may visit the patient in the hospital the nominated officer must allow the visit to take place.

Validity of approval of visit and withdrawal of such approval

4.—(1) Subject to paragraph (3), any approval for the child to visit the patient must be valid for a period of 12 months from the date on which it is given and may only be withdrawn in that period if the nominated officer is satisfied that there has been a relevant change of circumstances.

(2) If, after that period of 12 months referred to in paragraph (1) has elapsed, the patient wishes to continue to have visits from the child, the nominated officer must—

- (a) review the permission in accordance with paragraphs (3) to (9) of direction 3; and
- (b) must notify the persons mentioned in paragraph (9) of direction 3 of their decision and the reasons for that decision in writing.

(3) Notwithstanding paragraph (1), the nominated officer may at any time refuse to allow a visit to take place if there are concerns about the patient's mental state at the time of the proposed visit.

Complaints

5. A provider must set up a procedure to enable a patient to make representations against any decision of the nominated officer not to approve a visit other than a refusal on the grounds set out in direction 3, paragraphs (10) or (11).

Visits in exceptional circumstances

6.—(1) In exceptional circumstances and subject to any guidance given by the Secretary of State, the chief executive or the executive director may give their written authority for a patient to receive a visit from a child without an assessment in accordance with direction 3.

(2) The chief executive or the executive director must consult the nominated officer before approving a visit in such circumstances.

(3) Paragraph (1) does not apply where the patient is a person described in sub-paragraph (2)(b) of direction 2 and the child is not within the permitted categories of relationship set out in that sub-paragraph.

Arrangements to be put in place for visits

7.—(1) A hospital must ensure that—

- (a) during a visit the child has direct contact only with the patient for whom permission has been given for that child to visit,
- (b) subject to paragraph (2), the child is accompanied by—
 - (i) a person with parental responsibility for that child and with whom the child is living, or
 - (ii) another person who is caring for the child,
- (c) a visit takes place in an appropriate setting designated for visits by children and not in the ward area,
- (d) if in exceptional circumstances, a visit takes place in an area or place other than an appropriate setting designated for visits by children as set out in sub-paragraph (c), it must be appropriate, not be detrimental to the child and approved by the nominated officer, and
- (e) that there are sufficient staff of any appropriate grade and with requisite knowledge and understanding present to supervise a child's visit at all times.

(2) Sub-paragraph (1)(b) does not apply in the case of a child aged 16 or 17 where the nominated officer, having regard to the information they have received under direction 3, is satisfied that an unaccompanied visit is unlikely to prejudice the child's welfare.

Annual report to the Provider's Board of Directors

8. The chief executive must submit an annual report to the provider's board at the end of each financial year providing details of—

- (a) the number of patients visited by children in that year;
- (b) any special arrangements put in place to ensure that safety of those children whilst visiting patients, together with the chief executive's assessment of the appropriateness of such arrangements; and

- (c) the chief executive's assessment of the continuing adequacy of the arrangements put in place by the hospital to ensure the safety of children whilst visiting patients.

Revocation

9. The Visits by Children to Ashworth, Broadmoor and Rampton Hospitals Directions(a) that came into force on 1st September 1999 are revoked.

Signed by authority of the Secretary of State for Health



Anne McDonald

Member of the Senior Civil Service
Department of Health

11 June 2013

(a) These Directions were signed on 23rd July 1999 and can be obtained from the Department of Health, Richmond House, 79 Whitehall, SW1A 2NS.