



Ministry  
of Justice



HM Prison &  
Probation Service

To:  
All hospitals detaining Restricted Patients

**Her Majesty's Prison & Probation Service**  
Safer Custody & Public Protection Group  
Level 14  
Southern House  
Wellesley Grove  
Croydon  
CR0 1XG

Email: natalya.oprey@noms.gsi.gov.uk

18 April 2019

Dear colleague

### **Authority to use medical leave**

As part of our ongoing improvement programme, we have been reviewing a number of processes and policies. In December 2017, the Secretary of State provided all responsible clinicians at high secure hospitals with general consent to exercise their power to grant leave for medical treatment under section 17 of the Mental Health Act 1983 in most cases where individual approval for medical leave has yet to be made. This consent remains unchanged and the terms granted to the three High Secure hospitals are repeated in Annex A below.

During 2018, we invited responsible clinicians at medium secure units to apply for similar general consent. This was granted for the relatively few hospitals that applied. This new consent for all hospitals overrides the consent provided to those MSUs who applied, but in most cases is the same, or very similar in its terms.

We have now decided to provide *all* responsible clinicians at *any* hospital with general consent to exercise their power to grant leave for medical treatment. The terms of this consent differ, depending on the type of patient (whether the patient is a transferred prisoner or whether they have been diverted to hospital for treatment by way of a hospital order). The precise terms are set out in the attached annexes.

Please note that this does not change the arrangements in relation for emergency medical leave, which responsible clinicians may continue to use at their discretion for any restricted patient, as necessary.

For all hospitals (high secure included), this general consent does *not* extend to

- those restricted patients who already have specifically agreed terms for medical leave. Those specific authorisations continue; or

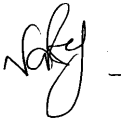
- those restricted patients that the Mental Health Casework Section (MHCS) has classified as “high profile”<sup>1</sup> cases. Individual authority must be sought in each high profile case in the usual way. Where agreed medical leave already exists for any of these named high profile patients, it continues. We are writing separately to each hospital that detains a high profile patient, with a list of those patients. If you do not receive a separate letter within the next 28 days, then you do not detain any high profile patients.

This general consent for medical leave for all other restricted patients applies to those detained on the date of this letter and all new admissions thereafter until further notice. MHCS will be updating its letters sent on admission of a new patient, which will include a reminder of these general terms for medical leave, or which will inform you that a new patient has been classified as “high profile”.

Where specific leave for an individual has been previously approved and applies different/more stringent escorting and security arrangements, those individual arrangements apply and that patient is not covered by this general authority. If there is any confusion, the responsible clinician should contact us to seek confirmation for that patient.

Where the responsible clinician wishes to deviate from these criteria, they should contact MHCS and seek written approval to do so, explaining why this change is sought and considered to be appropriate.

Yours sincerely



Natalya O'Prey  
Head of the Mental Health Casework Section

---

<sup>1</sup>MHCS designates “High profile” status to restricted patients where it is considered that the case merits attention from a senior manager at all stages. The status does not necessarily mean that the patient presents an unusually high risk of harm, but may be due (for example) to particularly sensitive victim issues, or substantial media attention.

## Annex A

### High Secure Hospitals – any restricted patient

For all restricted patients to whom the above exceptions do not apply, consent to section 17 leave for the purposes of medical treatment is granted in the following terms:

*In accordance with section 41(3)(c) of the Mental Health Act 1983 (“the 1983 Act”), the Secretary of State consents to the exercise of the power in section 17 of the 1983 Act to grant a leave of absence for the purposes of attending medical appointments to any restricted patient detained in a High Secure Hospital, subject to the following conditions:*

#### a) Emergencies

In the case of emergency medical leave the priority is to deal with the physical health crisis. Responsible Clinicians may apply appropriate security arrangements at their discretion. Responsible Clinicians are asked to seek to ensure the usual security arrangements as set out in b) are in place, but the Secretary of State recognises that this will not always be possible or appropriate in an emergency situation.

There is no need to inform the Secretary of State of the emergency medical leave immediately, but an email to the MHCS team as soon as practicable is requested. Where appropriate, the Responsible Clinician should also inform the local Police. If the admission to general hospital develops into overnight leave, the arrangements at c) should be put into place and the Secretary of State should be informed.

#### b) Routine Day Appointments

In the case of routine appointments, Responsible Clinicians have authority to grant leave at their discretion according to the following conditions:

- The patient must be escorted by **at least** three staff members at all times. The driver is in addition to the three escort staff.
- The patient must be transported in secure hospital vehicle and handcuffs must be used at all times.
- The patient must return to hospital immediately following the appointment/s.
- If any concerns arise, leave must be immediately suspended and the MoJ notified.
- The Secretary of State's consent is given on the understanding that the granting of section 17 leave involves no undue risk to the patient or to others and that there is a medical need for the treatment/appointment outside the secure hospital site. The local police should be contacted at once and the Mental Health Casework Section should be informed by telephone, with a follow up written report from the responsible clinician, if the patient fails to return to hospital from leave by the agreed time.
- This consent does not extend to the use of overnight medical leave, which will need to be applied for in the usual way.

**Any request to deviate from these conditions must be agreed in writing by the Secretary of State.**

Details of the treatment and appointments taken should be recorded in the Annual Statutory Report. This consent for medical leave at b) and c) applies only to situations where there is a medical need for the treatment/appointment outside the secure hospital site. The Secretary of State does not generally consider that cosmetic surgery, tattoo removal, or similar treatments by choice are essential. Where the RC is of the view that such an appointment is essential, you must seek authority for such an appointment from the Secretary of State by application.

In all cases an appropriate risk assessment should be carried out by the care team in advance of any medical appointment and consideration should be given as to whether it is necessary to impose further security measures based on the level of risk identified

If there are incidents of the leave being misused or evidence of behaviours which pose a risk to the public or patient, the Responsible Clinician must suspend the leave.

The Secretary of State's consent is given on the understanding that the granting of section 17 leave involves no undue risk to the patient or to others and that there is a medical need for the treatment/appointment outside the secure hospital site.

The local police should be contacted at once and the Mental Health Casework Section should be informed by telephone, with a follow up written report from the responsible clinician, if the patient fails to return to hospital from leave by the agreed time.

## Annex B

### Terms of medical leave for all hospitals, other than high secure, for patients detained under sections 45A, 47/49, 48/49:

#### Medical Leave

*In accordance with section 41(3)(c) of the Mental Health Act 1983 ("the 1983 Act"), the Secretary of State consents to the exercise of the power in section 17 of the 1983 Act to grant a leave of absence for the purposes of attending medical appointments subject to the following conditions:*

#### a) Emergencies

In the case of emergency medical leave the priority is to deal with the physical health crisis. Responsible Clinicians may apply appropriate security arrangements at their discretion. Responsible Clinicians are asked to seek to ensure the usual security arrangements as set out in b) are in place, but the Secretary of State recognises that this will not always be possible or appropriate in an emergency situation.

There is no need to inform the Secretary of State of the emergency medical leave immediately, but an email to the MHCS team as soon as practicable is requested. Where appropriate, the Responsible Clinician should also inform the local Police. If the admission to general hospital develops into overnight leave, the arrangements at c) should be put into place and the Secretary of State should be informed.

#### b) Routine Day Appointments

In the case of routine appointments, Responsible Clinicians have authority to grant leave at their discretion according to the following conditions:

- The patient must be escorted by a **minimum** of two (2) members of staff at all times
- They must travel in a secure vehicle with a separate driver (in addition to the 2 escorting staff)
- Handcuffs must be carried and are to be worn as necessary
- A check on victim location should be made in order to prevent possible inadvertent contact (through the Victim Liaison Officer if there is one)
- The patient must be returned to hospital immediately following the appointments
- If any concerns arise, leave must be immediately suspended

**Any request to deviate from these conditions must be agreed in writing by the Secretary of State.**

Details of the treatment and appointments taken should be recorded in the Annual Statutory Report.

#### c) Overnight Medical Leave

In the case of overnight medical leave appointments for one or more nights, Responsible Clinicians have authority to grant leave at their discretion according to the following conditions:

- The Responsible Clinician must inform the Secretary of State in writing in advance of the overnight leave setting out the reason for the overnight stay and the expected length of time such leave will take
- The patient must be escorted by a **minimum** of two (2) members of staff at all times
- They must travel in a secure vehicle with a separate driver (in addition to the 2 escorting staff)
- Handcuffs must be carried and are to be worn as necessary
- A check on victim location should be made in order to prevent possible inadvertent contact (through the Victim Liaison Officer if there is one)
- The patient must be returned to hospital immediately following discharge from general hospital
- If any concerns arise, leave must be immediately suspended, or security arrangements increased to protect the public

**Any request to deviate from these conditions must be agreed in writing by the Secretary of State.**

Details of the treatment and appointments taken should be recorded in the Annual Statutory Report.

This consent for medical leave at b) and c) applies only to situations where there is a medical need for the treatment/appointment outside the secure hospital site. The Secretary of State does not generally consider that cosmetic surgery, tattoo removal, or similar treatments by choice are essential. Where the RC is of the view that such an appointment is essential, you must seek authority for such an appointment from the Secretary of State by application.

In all cases an appropriate risk assessment should be carried out by the care team in advance of any medical appointment and consideration should be given as to whether it is necessary to impose further security measures based on the level of risk identified

If there are incidents of the leave being misused or evidence of behaviours which pose a risk to the public or patient, the Responsible Clinician must suspend the leave.

The Secretary of State's consent is given on the understanding that the granting of section 17 leave involves no undue risk to the patient or to others and that there is a medical need for the treatment/appointment outside the secure hospital site.

The local police should be contacted at once and the Mental Health Casework Section should be informed by telephone, with a follow up written report from the responsible clinician, if the patient fails to return to hospital from leave by the agreed time.

## Annex C

### Terms of medical leave for all hospitals, other than high secure, for patients detained under sections 37/41 hospital orders (or equivalent):

#### Medical Leave

*In accordance with section 41(3)(c) of the Mental Health Act 1983 ("the 1983 Act"), the Secretary of State consents to the exercise of the power in section 17 of the 1983 Act to grant a leave of absence for the purposes of attending medical appointments subject to the following conditions:*

#### a) Emergencies

In the case of emergency medical leave the priority is to deal with the physical health crisis. Responsible Clinicians may apply appropriate security arrangements at their discretion. Responsible Clinicians are asked to seek to ensure the usual security arrangements as set out in b) are in place, but the Secretary of State recognises that this will not always be possible or appropriate in an emergency situation.

There is no need to inform the Secretary of State of the emergency medical leave immediately, but an email to the MHCS team as soon as practicable is requested. Where appropriate, the Responsible Clinician should also inform the local Police. If the admission to general hospital develops into overnight leave, the arrangements at c) should be put into place and the Secretary of State should be informed.

#### b) Routine Day Appointments

In the case of routine appointments, Responsible Clinicians have authority to grant leave at their discretion according to the following conditions:

- The patient must be escorted by a **minimum** of two (2) members of staff at all times
- Use of handcuffs is at the Responsible Clinician's discretion
- Use of secure transport is at the Responsible Clinician's discretion
- A check on victim location should be made in order to prevent possible inadvertent contact (through the Victim Liaison Officer if there is one)
- The patient must be returned to hospital immediately following the appointments
- If any concerns arise, leave must be immediately suspended

**Any request to deviate from these conditions must be agreed in writing by the Secretary of State.**

Details of the treatment and appointments taken should be recorded in the Annual Statutory Report.

#### c) Overnight Medical Leave

In the case of overnight medical leave appointments for one or more nights, Responsible Clinicians have authority to grant leave at their discretion according to the following conditions:

- The Responsible Clinician must inform the Secretary of State in writing in advance of the overnight leave setting out the reason for the overnight stay and the expected length of time such leave will take
- The patient must be escorted by a **minimum** of two (2) members of staff at all times
- Use of handcuffs is at the Responsible Clinician's discretion
- Use of secure transport is at the Responsible Clinician's discretion
- A check on victim location should be made in order to prevent possible inadvertent contact (through the Victim Liaison Officer if there is one)
- The patient must be returned to hospital immediately following discharge from general hospital
- If any concerns arise, leave must be immediately suspended, or security arrangements increased to protect the public

**Any request to deviate from these conditions must be agreed in writing by the Secretary of State.**

Details of the treatment and appointments taken should be recorded in the Annual Statutory Report.

This consent for medical leave at b) and c) applies only to situations where there is a medical need for the treatment/appointment outside the secure hospital site. The Secretary of State does not generally consider that cosmetic surgery, tattoo removal, or similar treatments by choice are essential. Where the RC is of the view that such an appointment is essential, you must seek authority for such an appointment from the Secretary of State by application.

In all cases an appropriate risk assessment should be carried out by the care team in advance of any medical appointment and consideration should be given as to whether it is necessary to impose further security measures based on the level of risk identified

If there are incidents of the leave being misused or evidence of behaviours which pose a risk to the public or patient, the Responsible Clinician must suspend the leave.

The Secretary of State's consent is given on the understanding that the granting of section 17 leave involves no undue risk to the patient or to others and that there is a medical need for the treatment/appointment outside the secure hospital site.

The local police should be contacted at once and the Mental Health Casework Section should be informed by telephone, with a follow up written report from the responsible clinician, if the patient fails to return to hospital from leave by the agreed time.