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| **Mental Health Casework Section**Guidance: Medical Leave for Restricted Patients |
|  |
|  February 2021 |

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**1 Introduction**

This document sets out the arrangements that apply for restricted patients detained in psychiatric hospitals who are required to attend general hospitals, dentists, opticians or other designated medical facilities for appointments or procedures for their physical health.

This guidance formalises and replaces the arrangements for medical leave set out in the letter from the then Head of Mental Health Casework Section (MHCS) of 18 April 2019 to all Responsible Clinicians (RC). The 2019 letter provided RCs with general consent to exercise their power to grant leave for medical treatment under section 17 of the Mental Health Act 1983.

The guidance is subject to review or withdrawal as deemed appropriate by MHCS.

The guidance is not intended to supersede but instead to supplement the document ‘Guidance: Section 17 – Leave of Absence’ published in December 2020, which is available at the following link:

<https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/946325/MHCS_Leave_Guidance.docx>

The guidance should be read in conjunction with the document titled ‘Mentally Disordered Offenders – The restricted patient system’ which is available on the following link:

<https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/670671/RP_Background_Brief_v1_Dec_2017.pdf>

**2** **General Principles for Medical Leave**

1. Authority for Medical Leave

The statutory authority to facilitate the absence of a patient from a psychiatric hospital be that secure, locked or open is set out in section 17 of the Mental Health Act 1983 (The 1983 Act). Detained patients who are subject to ‘special restrictions’ as set out in sections 41 and 49 of the 1983 Act require the Secretary of State’s approval to take leave of absence from a hospital for any purpose.

1. Medical Appointments and Procedures Definition

This consent for routine day appointments or overnight medical leave 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 elective treatments are essential. Where the RC is of the view that such an appointment is essential, a RC must seek authority for such an appointment from the Secretary of State, by application.

1. Managing Risk

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

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

The Secretary of State's consent is given on the understanding that the granting of section 17 leave pursuant to this Guidance 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.

If the patient fails to return to hospital from leave by the agreed time, 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 RC.

Our contact details can be obtained from this link:

[HMPPS Mental Health Casework Section contact list - GOV.UK (www.gov.uk)](https://www.gov.uk/guidance/noms-mental-health-casework-section-contact-list)

1. Recording instances of Medical Leave.

Details of the medical leave taken for treatment and appointments should be recorded in the Annual Statutory Reports that must be routinely submitted to MHCS.

**3 High Profile Patients**

High profile patients are not covered by this general authority for medical leave and the Responsible Clinician must apply for medical leave through MHCS. The application for medical leave can be found at:

<https://www.gov.uk/government/publications/leave-application-for-restricted-patients>

High profile patients are designated as such by MHCS either on admission to hospital or following a referral for a review of that status. Hospitals are informed of which of their patients are classed as high profile and if they are unsure they can contact MHCS. The guidance that sets out the ‘Designation and Management of High Profile Restricted Patients’ by MHCS can be found at the link below:

<https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/845326/Guidance_-_The_Designation_and_Management_of_High_Profile_Restricted_Patients__2_.pdf>

1. Emergency Treatment for High Profile Patients

Where a high profile patient is required to attend hospital in an emergency, any pre-existing escorting arrangements for medical leave should be implemented as far as the hospital are able. However, any need for emergency treatment will outweigh the requirement to adhere to pre-existing arrangements. Where there are no pre-existing arrangements then the hospital should ensure that the patient has escorts within close proximity of the patient for any appointments and within eyeline for any procedures.

MHCS will expect to be notified at the earliest opportunity when a high profile patient has been removed from hospital for emergency treatment, either by email to MHCSmailbox@justice.gov.uk or by calling one of the numbers set out below:

 07812 760 274

 07812 760 582

 07812 760 523

 07812 760 356

**4 High Secure Hospitals – any restricted patient**

For all restricted patients who are not high profile and are detained in high security, 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:

1. Emergencies

In the case of emergency medical leave the priority is to deal with the physical health crisis. Responsible Clinicians should apply appropriate security arrangements at their discretion. Responsible Clinicians are asked to seek to ensure the usual security arrangements as set out in b, below, 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 MHCS at MHCSmailbox@justice.gov.uk 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.

1. 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 three (3) members of staff at all times.
* The patient must be transported in secure hospital vehicle. A driver is in addition to the three escort staff.
* Handcuffs must be used at all times, except when their removal is necessary for the purposes of a medical appointment or procedure.
* The patient must return to hospital immediately following the appointment/s.
* If any concerns arise, leave must be immediately suspended and MHCS notified.
* A check on victim location should be made in order to prevent possible inadvertent contact (through the Victim Liaison Officer if there is one)

**Any request to deviate from these conditions must be agreed in writing by the Secretary of State. Applications for deviation should be submitted via the link below:**

<https://www.gov.uk/government/publications/leave-application-for-restricted-patients>

1. 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 three (3) members of staff at all times

• They must travel in a secure hospital vehicle with a separate driver

• Handcuffs must be used at all times, except when their removal is necessary for a medical procedure.

• 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. Applications for deviation should be submitted via the link below:**

<https://www.gov.uk/government/publications/leave-application-for-restricted-patients>

**5** **Patients transferred from prisons or subject to section 45A hospital direction and limitation directions**

Terms of medical leave for all hospitals, other than high secure, for patients detained under sections 45A, 47/49, 48/49 of the 1983 Act:

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 should apply appropriate security arrangements at their discretion. Responsible Clinicians are asked to seek to ensure the usual security arrangements as set out in b, below, 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 MHCS at MHCSmailbox@justice.gov.uk 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.

1. 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. Applications for deviation should be submitted via the link below:**

<https://www.gov.uk/government/publications/leave-application-for-restricted-patients>

1. 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 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. Applications for deviation should be submitted via the link below:**

<https://www.gov.uk/government/publications/leave-application-for-restricted-patients>

**6** **Patients Subject to section 37/41 orders**

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

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:

1. Emergencies

In the case of emergency medical leave the priority is to deal with the physical health crisis. Responsible Clinicians should apply appropriate security arrangements at their discretion. Responsible Clinicians are asked to seek to ensure the usual security arrangements as set out in b below. 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 MHCS at MHCSmailbox@justice.gov.uk 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.

1. 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. Applications for deviation should be submitted via the link below:**

<https://www.gov.uk/government/publications/leave-application-for-restricted-patients>

1. 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. Applications for deviation should be submitted via the link below:**

<https://www.gov.uk/government/publications/leave-application-for-restricted-patients>

**7 Escorts not employed by the detaining hospital**

The Secretary of State expects hospitals to use staff directly employed by that hospital when medical

leave is being undertaken. However, MHCS understand occasions may arise where this will not be possible. If

hospitals require staff not directly employed by them to act as escorts then the RC must submit an application

to vary the conditions, stating why staff not employed by the hospital are being used as escorts. MHCS will

expect that the necessary delegation of escorting responsibilities is authorised in advance by hospital managers

in accordance with section 17(3) of the 1983 Act.

Applications for the variation can be submitted via the link below:

<https://www.gov.uk/government/publications/leave-application-for-restricted-patients>