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| **Mental Health Casework Section***Guidance*:Transfers between Hospitals in England and Wales |
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| November 2024 |

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**TRANSFERS WITHIN ENGLAND AND WALES**

**LEGAL PROVISIONS**

**The role of the Secretary of State in relation to Transfer**

1. Section 19 of the Mental Health Act 1983 (MHA) and regulations made under it, enable a patient who is detained in hospital to be transferred to another hospital and to be detained in that hospital on the same basis. By virtue of section 41(3)(c) of the Act, where the patient is subject to a restriction order, the consent of the Secretary of State is needed to transfer any restricted patient between hospitals under section 19.

**Internal Transfers and “Named” Wards**

1. Under section 47 of the Crime (Sentences) Act 1997 the court, when making a restricted hospital order or a hospital direction with limitation direction, and the Secretary of State, when transferring a prisoner to hospital when he also attaches a restriction direction, may direct that the patient be detained in a specific hospital unit. This will normally be to a named ward to prevent patients being moved to lower levels of security within a hospital without the Secretary of State’s agreement. Where a hospital unit is named, the Secretary of State’s agreement is needed for movement out of that unit, even if the transfer is to the same level of security. If however, the transfer involves no change to either the named unit/hospital, prior agreement from the Secretary of State is not required. The Mental Health Casework Section (MHCS) , should, however, be informed of the move.

**POLICY ON SECTION 19 TRANSFERS FOR RESTRICTED PATIENTS**

1. The Secretary of State recognises the importance of patients being placed in appropriate levels of security at all stages of their detention, and that the ultimate goal, where possible, is the patient’s safe rehabilitation back into the community. The Secretary of State’s role is to ensure that transfers between hospitals preserve public safety, and, where appropriate, respect the feelings and fears of victims and others who may have been affected by the offences. The Secretary of State will not agree to a transfer unless he is satisfied that the move will not put the public or victims at risk.

To help responsible clinicians (RCs) provide all the information required to enable the Secretary of State to properly risk assess transfer proposals, there are forms for each of the types of transfer, the link to these forms can be found here: [Apply for trial leave or full transfer to another hospital for restricted patients - GOV.UK](https://www.gov.uk/government/publications/trial-leave-or-full-transfer-to-another-hospital-application-form-and-guidance)

1. The Secretary of State expects transfer proposals to include a full account of all the information required in the application form to enable an informed decision to be made.
2. When sufficient evidence has been received, MHCS aims to issue a decision on receipt of the full transfer application within the following timescales:
* Trial leave – 28 days
* Upgrade transfer – 7 days
* Level transfer – 14 days
* Downgrade transfer – 28 days

 These timescales run from the date all the required information has been received by MHCS. Although no guarantees can be given, every effort is made to meet these targets. Proposals for transfer to lower levels of security are given additional scrutiny to ensure that the proposed place of detention does not increase the potential risk to the public.

1. For urgent transfers that require **immediate** action, verbal authority may be sought from a manager in MHCS, prior to completion of the required paperwork. The sending or receiving Responsible Clinician should call 0208 253 4725 during the hours of 9 to 5 Monday – Friday. If the request needs to occur outside of these hours, the following number should be used: 0300 303 2079.

1. Once the RC’s proposal has been considered and a decision reached, the RC will be informed by letter. If the proposal is being refused or the patient is to be transferred to a higher level of security, the Secretary of State's reasons will be clearly set out. If the Secretary of State consents to the formal transfer of the patient (in some cases following a period of trial leave), we will inform the applicant and the RC at the current hospital.
2. A copy should be retained by the current hospital and the RC's copy should be forwarded, with all the relevant documents concerning the patient's detention, including the police reports, to the RC at the receiving hospital. ***Following approval of the transfer it is expected that a substantive handover of all relevant information and documentation relating to the patient takes place.***
3. Unless otherwise stated, transfer authorisation letters are valid for 90 days from the date of issue. If the patient has not transferred by the date of this authorisation, then MHCS must be contacted to request the authorisation be re-considered. An update on the patient’s progress and the reason for the delay in transfer must be provided in order for the letters to be reissued.
4. MHCS must be informed once the patient has moved. MHCS will then inform the police that the transfer has taken place.
5. Once transfer has taken place, the Secretary of State expects the care team to constantly review the patient’s suitability for that level of security and, if in any doubt, to contact MHCS staff without delay.

**TRIAL LEAVE**

1. In situations in which a period of testing in another hospital is considered necessary to ensure that the patient can be managed appropriately in the proposed hospital, the Secretary of State will give permission for “trial leave” as a precursor to consent for transfer under s19. Trial leave is effected by means of granting permission for s17 leave for the sole purpose of temporary transfer to the proposed hospital.
2. Downgrade transfers from high secure services usually follow a period of successful trial leave in the first instance, due to the level of risk associated with moving patients out of high secure services. Patients will remain formally under the care of the sending Responsible Clinician, and their bed in high secure services will be retained, in case the patient needs to return urgently to high secure conditions, until such time as the Secretary of State has given consent to the s19 transfer. The RC should specify the duration of the trial leave sought. Trial leave is typically for a period six months, with an option to extend if deemed appropriate. In most cases 6 months should be sufficient to determine whether a full transfer is appropriate, however, MHCS will agree to extensions, not usually exceeding 12 months in total, to enable further testing to take place. Trial leave will not be considered for a period shorter than three months.
3. It is acknowledged that there may be some cases where trial leave is requested for moves other than from high security. However, there would need to be a clear justification as to why a full transfer was not being requested and in order to consider any such request it is expected that the sending Responsible Clinician will contact MHCS to discuss their request for trial leave with a manager before completing and sending in a full application. Such applications will not be accepted without evidence a manager from MHCS has agreed to their consideration. Similarly, moves from high secure services to security levels below medium secure, will need to be discussed and will require a final decision from a senior manager.
4. For applications for trial leave, the sending RC must complete Part A of the ‘Request for Trial Leave’ form, which must then be sent to the proposed receiving RC to complete Part B. Either party may send in the completed form to MHCSMailbox@justice.gov.uk, but the other RC/hospital must be copied into the application email. One month prior to completion of the initial trial leave period, both the sending and receiving RC’s must file a progress report, including whether they are recommending full transfer, extension of trial leave, or return to high secure services, with reasons for their recommendation. MHCS will then consider these recommendations and determine whether to approve full transfer, extend the trial period, or terminate the leave.

**TRANSFER APPLICATION FORMS**

1. Any request to move a patient to a different level of security than that specified in the patient’s detention authority will require the relevant Responsible Clinician to complete the form entitled ‘Application for full transfer to another hospital’*’*. This also applies to transfers to a different hospital under the same level of security. The nature of the transfer will dictate what elements of the form need to be completed, and what information will need to be provided.
2. Please note, the language and terminology of Acute Inpatient Services is changing. These forms reflect those changes. For guidance, please refer to the following links on NHS England’s website.
* [NHS England » Acute inpatient mental health care for adults and older adults](https://www.england.nhs.uk/long-read/acute-inpatient-mental-health-care-for-adults-and-older-adults/)
* [NHS England » National guidance to support integrated care boards to commission acute mental health inpatient services for adults with a learning disability and autistic adults](https://www.england.nhs.uk/long-read/national-guidance-to-support-integrated-care-boards-to-commission-acute-mental-health-inpatient-services-for-adults-with-a-learning-disability-and-autistic-adults/)
* [NHS England » Commissioner guidance for adult mental health rehabilitation inpatient services](https://www.england.nhs.uk/long-read/commissioner-guidance-for-adult-mental-health-rehabilitation-inpatient-services/)
1. **PART A** must be completed for **ALL** types of transfer. This section requires the patient’s and clinicians’ details (both proposing and accepting) along with reasons for the transfer. It is important to be clear on the aims of the proposal and the anticipated benefits for the patient’s treatment and/or rehabilitation, both in the long and short term.

Once this has been completed select the type of transfer required by ctrl + clicking on the type of transfer proposed (upgrade, level or downgrade). This will direct the user to the correct Part B form for completion.

1. **PART B** requirements are dependent on the type of transfer proposed, but will include patient specific information, as well as details of other agencies that may be involved in the patient’s case. The level of information required will depend on the type of transfer and associated increase in risk.

**Part B** should be completed in full, taking note of the questions and prompts provided. Some of the wording within the form will be set out in different coloured fonts, as follows:

**Green**: This is the minimum information that needs to be provided as part of the application (this information will assist us in our risk assessment)

**Blue**: Information to note when completing the application

**Red**: Important information to note when completing the application

**Part B** should be signed by the **sending Responsible Clinician.**

**TYPE OF TRANSFER**

**Upgrade transfers:**

1. For **urgent upgrade** transfers that require immediate action, verbal authority may be sought from a manager in MHCS, prior to completion of the required paperwork. The sending or receiving Responsible Clinician should call 0208 253 4725 during the hours of 9 to 5 Monday – Friday. If the request needs to occur outside of these hours, the following number should be utilised: 0300 303 2079
2. MAPPA: Nearly all Restricted Patients will be registered under the MAPPA arrangements: see section 26 of the [MAPPA Website](https://mappa.justice.gov.uk/connect.ti/MAPPA/groupHome) for further details. This guidance also includes full details regarding MAPPA categories and levels at which patients are managed. A list of MAPPA eligible offences is here: [Offences specified in Schedule 15 to the Criminal Justice Act 2003 - Multi-Agency Public Protection Arrangements - MAPPA](https://mappa.justice.gov.uk/MAPPA/view?objectID=13043380). Please note, the application will be rejected if the patient has been convicted of a MAPPA eligible offence and the MAPPA level is not specified. The local MAPPA coordinator should be notified as soon as is practicable following any approval.
3. Victims: Not all victims will be registered with the Victim Liaison Scheme. It is MHCS policy to take into account any information provided by victims to ensure they feel adequately protected. Multi-Disciplinary Teams (MDTs) should be in contact with Victim Liaison Officers and able to include their views with the application. This application will be rejected if there have been no meaningful attempts to liaise with the VLO or victim services when there are active victim issues. In cases where the victim(s) are actively involved in the victim contact scheme, if the application is not urgent and the proposed transfer will be moving the patient closer to the victim(s) of the index offence then the Victim Liaison Officer(s) should be notified of the transfer request and victim views sought.
4. Once **ALL** relevant sections of the form have been completed the form should be sent to MHCSMailbox@justice.gov.uk, along with an email confirmation of acceptance from the receiving responsible clinician. If the transfer is urgent then it is satisfactory to copy in the receiving responsible clinician or their secretary into the email submission. Please note, not providing any proof of acceptance by the receiving ward/unit will delay the processing of the application.

**Level Transfers:**

1. MAPPA: The application will be rejected if the patient has been convicted of a MAPPA eligible offence and the MAPPA level is not specified. A list of MAPPA eligible offences is here: [Offences specified in Schedule 15 to the Criminal Justice Act 2003 - Multi-Agency Public Protection Arrangements - MAPPA](https://mappa.justice.gov.uk/MAPPA/view?objectID=13043380). If the patient is managed at level 2 or 3, MAPPA must be notified of the application AND provided with the opportunity to give feedback BEFORE submitting the application to MHCS. Patients at this level are usually assessed as posing high or very high risk of serious harm. It is not sufficient for MAPPA to have just been notified of the application, and it will be rejected unless MAPPA have had the opportunity to provide comments.
2. Victims: Not all victims will be registered with the Victim Liaison Scheme. It is MHCS policy to take into account any information provided by victims to ensure they feel adequately protected. Multi-Disciplinary Teams (MDTs) should be in contact with Victim Liaison Officers and able to include their views with the application. This application will be rejected if there have been no meaningful attempts to liaise with the VLO or victim services when there are active victim issues. In cases where the victim(s) are actively involved in the victim contact scheme, if the application is not urgent and the proposed transfer will be moving the patient closer to the victim(s) of the index offence then the Victim Liaison Officer(s) should be notified of the transfer request and victim views sought.
3. Transferred prisoners or detainees: This part of the form MUST be completed if the patient is a sentenced, remanded, unsentenced prisoner or Immigration Detainee transferred to hospital under s47 or s48 with a s49 restriction direction or a patient subject to a hospital direction under s45A of the Mental Health Act 1983. This application will be rejected if the Offender Manager has not been notified of this application and had the opportunity to provide views. If there is no response from the Offender Manager after a number of reminders have been sent, we require the email trail so the matter can be addressed by MHCS. It is also essential that the RC outlines the rationale as to why remission is not considered appropriate at this time.
4. Patient views: The patient has the opportunity to provide their views on the application in Annex A attached to the level transfer application form.
5. The form should be sent to MHCSMailbox@justice.gov.uk with an email confirmation of acceptance from the receiving responsible clinician.
6. Forms should be supplemented with any additional information that the RC considers would assist the Secretary of State. Examples of such information would include additional material which explores the reasons for recommending transfer at this stage of the patient’s rehabilitation/treatment (this may take the form of reports prepared for a CPA meeting, for example). Requests for further information may be made by MHCS if the caseworker considers this necessary to conduct a full risk assessment, and consideration of the proposal will be delayed until this has been received.

**Downgrade Transfers:**

1. MAPPA: The application will be rejected if the patient has been convicted of a MAPPA eligible offence and the MAPPA level is not specified. A list of MAPPA eligible offences is here: [Offences specified in Schedule 15 to the Criminal Justice Act 2003 - Multi-Agency Public Protection Arrangements - MAPPA](https://mappa.justice.gov.uk/MAPPA/view?objectID=13043380). If the patient is managed at level 2 or 3, MAPPA must be notified of the application AND provided with the opportunity to give feedback BEFORE submitting the application to MHCS. Patients at this level are usually assessed as posing high or very high risk of serious harm. It is not sufficient for MAPPA to have just been notified of the application, and it will be rejected unless MAPPA have had the opportunity to provide comments.
2. Victims: If there are active victim concerns, the VLO MUST be contacted. The application will be rejected unless the VLO(s) has been informed of this application, AND has had the opportunity to consult with the victim and provide any views. If there is no response from the VLO(s) after a number of reminders have been sent, we require the email trail so the matter can be addressed by MHCS.
3. Transferred prisoners or detainees: This part of the form MUST be completed if the patient is a sentenced, remand or unsentenced prisoner or immigration detainee transferred to hospital under s47 or s48 with a s49 restriction direction or a patient subject to a hospital direction under s45A of the Mental Health Act 1983. This application will be rejected if the Offender Manager has not been notified of this application and had the opportunity to provide views. If there is no response from the Offender Manager after a number of reminders have been sent, we require the email trail so the matter can be addressed by MHCS. It is also essential that the RC outlines the rationale as to why remission is not considered appropriate at this time.
4. Patient views: The patient has the opportunity to provide their views on the application in Annex A attached to the downgrade transfer application form.
5. The form should then be sent to the receiving responsible clinician to complete **Part C**. Once all relevant sections have been completed the full application can be submitted by either hospital. The fully completed form should be sent to MHCSMailbox@justice.gov.uk, and the other hospital/Responsible Clinician should be copied into the application email**.**
6. Forms should be supplemented with any additional information that the RC considers would assist the Secretary of State. Examples of such information would include additional material which explores the reasons for recommending transfer at this stage of the patient’s rehabilitation/treatment (this may take the form of reports prepared for a CPA meeting, for example). Requests for further information may be made by MHCS if the caseworker considers this necessary to conduct a full risk assessment, and consideration of the proposal will be delayed until this has been received.

**BULK Transfers**

1. Where a number of patients are to be transferred within the same trust, it may be possible to treat these as a group transfer. The criteria for a group transfer are as follows:
	* + - Five or more patients to be transferred.
			- The transfer is within the same hospital Trust.
			- The security level of the patients remains unchanged.
			- There is a minimum of five weeks notice of the date of transfer.
2. If the RC considers that a group transfer is appropriate, there is no need to complete an application form and the request can be made by sending a letter setting out the following information to mhcscpst@justice.gov.uk

List of all restricted patients:

* + - * + Full name
				+ DOB
				+ Current ward and security level.
				+ Current address
				+ Current responsible clinician
				+ Details of current Detention Authority
				+ Full details of proposed location, including ward, security level and responsible clinician.
				+ Details of proposed Responsible Clinician
				+ Contact details, including person co-ordinating the move and email addresses
				+ Any additional information e.g. media interest.

**TRANSFER OF PERMISSION FOR s17 COMMUNITY LEAVE**

1. The default position is that consent for s17 leave will remain when a patient transfers from one hospital to another. However, this will be considered on a case-by-case basis, and permission may be rescinded should the Secretary of State have concerns that leave is no longer appropriate. Situations in which permission for leave may be rescinded include upwards transfers as a result of increase in risk, or if there is evidence that the patient will have particular difficulty settling in a new environment such that risk may temporarily increase.
2. The community leave authorisation that is transferring with the patient will be outlined in the transfer authorisation letters, including any attached conditions. The patient will only have permission for leave as outlined in these letters following transfer, regardless of any previous authorisation.

**PRISON TRANSFER AND HOSPITAL DIRECTION CASES**

1. Requests for transferred prisoners to move hospitals will be considered in line with the policy set out above. The only exception is that the Secretary of State will usually not consent to the transfer of a prisoner to an open unit, unless the transferred prisoner would be likely to be eligible for transfer to open conditions in prison and he is otherwise satisfied that treatment in an open unit is appropriate.

**For any queries, please email** **MHCSMailbox@justice.gov.uk**