



Section 17 Mental Health Act 1983 – Policy for the Granting of Leave of Absence to in-patients

Worcestershire Mental Health Partnership NHS Trust Information Reader Box

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1 INTRODUCTION AND BACKGROUND

This policy documents procedures relating to leave of absence from hospital for both informal patients and patients who are liable to be detained under the Mental Health Act 1983 (as amended 2007) (MHA 1983), referred to as formal or detained patients.

2 GENERAL PRINCIPLES - LEAVE OF ABSENCE RELATING TO ALL INPATIENTS

2.1 Definition of leave of absence

Leave of absence is when an inpatient has left the hospital site for a period of time. This may be planned and agreed at the ward round, or agreed following an initial discussion with the nurse in charge. Any overnight leave must be discussed with a doctor and the medical team prior to agreement.

Note: only a patient's Responsible Clinician (RC) or nominated cross-cover RC can provide leave of absence to a patient detained under the MHA 1983.

Patients should only be granted leave if their clinical state permits it and it has been properly planned with regard for their own safety and that of others. It should not be used to free up beds nor should leave be extended for that purpose. The community team, care coordinator, GP and any other agencies in the community in contact with the person to provide treatment and/or support must be informed of any periods of leave away from the Hospital grounds.

The ward team, including the Responsible Clinician are responsible for ensuring that an adequate care plan, including crisis and risk management plans, are in place to cover the period of leave away from the hospital. The care plan should be copied to all relevant individuals and agencies that have, or may have responsibility for the care of the patient during the period of leave.

2.2 Purpose of leave

The purposes of leave may be multi faceted and could include:

Preparation for discharge.

The identification of psycho-social factors relating to the patient's illness.

The identification and management of stress and vulnerability when the patient is away from hospital.

In order to assess the patient's (and their carer's) coping skills when they are away from hospital.

To allow for periods of normalisation.

To assessment whether a patient may be suitable for a Supervised Community Treatment Order (S17a)

2.3 Planning and authorisation of leave

Leave of absence should be seen as an integral part of the patient's treatment and management. All patients, formal or informal, need comprehensive information on understanding their illnesses, their treatments, local arrangements and their rights under current legislation, including their right to leave and any conditions they must adhere to. Practical and social aspects of daily living are of great importance. A period of leave from the hospital may allow for these skills to be assessed and practiced.

3 LEAVE FOR INFORMAL PATIENTS

Informal patients with full capacity are patients who have consented to stay in hospital voluntarily. They therefore have the right to leave hospital if they wish. They cannot be required to ask permission to leave but can be asked to inform the nurse in charge when they wish to leave the ward.

A doctor cannot recall an informal patient unless they consent to the recall. Where an informal patient is on leave and does not consent to being recalled, the Care Team must develop their response based on what they know of the person and his current environment.

Statutory holding powers under the MHA 1983 (s5(4) or s5(2)) may be considered by the nurse in charge when there are concerns that there may be risks present to the patient or others if they were to leave hospital.

Where leave for an informal patient would represent a risk of harm to children or a vulnerable adult and where there are no grounds for detention under the MHA 1983 then appropriate referrals should be made to the Children's Safeguarding Team or Adult Protection Team, in order that risks to those individuals can be assessed and plans put into place to protect within the appropriate legislative frameworks.

Patients detained under the Mental Capacity Act 2005 Deprivation of Liberty Safeguards are neither subject to the Mental Health Act 1983 for the purposes of leave nor, in many instances, are they able to leave the ward.

3.1 Practical considerations, including Care Programme Approach (CPA)

The MHA 1983 Code of Practice states that leave is an important part of the patient's treatment plan and that it should be well planned, as far in advance as possible. Patients should be fully involved in the decision to grant leave. They should also consent to any consultation with others that is felt to be necessary. When planning leave, staff should consult with the patient's carers as well as with other involved agencies where possible.

Leave should be a planned activity and should be supported by community and inpatient staff working together both prior to and during a period of leave. A patient going on leave should have a CPA care plan which clearly informs any relevant person, including the patient, of important contact information, current medication, a crisis and contingency plan and a risk management plan. Both inpatient and community staff should work closely together to build a care plan which provides the above information and it should be copied to and discussed with the patient well before the period of leave in order that they can be familiar with its contents and understand what is expected of them and all others named in the care plan. This applies to ALL inpatients going on leave.

Leave should not be delayed or refused because of administrative issues.

3.2 Guidance for nursing staff

Nursing staff have a vital role in the effective implementation, recording and evaluation of leave granted to inpatients. It should be standard practice for the Named Nurse to note in the nursing records every occasion when leave is taken, the circumstances under which it is taken (e.g: whether escorted and, if so, by whom) and the date and time at which the patient departs and returns. Nursing staff should assess a patient's clinical state before each and every instance of leave. They should pay particular attention to the risk which a patient poses to themselves or to others. The patient's mental state should also be assessed on their return from leave.

If nursing staff have significant concerns they should seek advice from the RC. They will also usually be the people notifying the authorities if a patient fails to return from leave.

Before the Police are contacted then nursing staff should take reasonable steps to locate and assess the patient, typically this may mean telephoning and speaking to the patient. If the patient does not want to return to the ward alternatives such as supporting the patient via the CRHT may be an option.

If ward staff are unable to contact the patient or if they have serious concerns about their welfare or the safety of others, the police should be contacted.

4 LEAVE FOR PATIENTS DETAINED UNDER THE MHA 1983

The MHA Code of Practice, Chapter 21, gives advice on the granting of leave of absence to detained patients and their recall to hospital. For patients detained under part 3 of the Act (patients under sentence of the court or concerned with criminal proceedings), special conditions apply.

4.1 Ground leave

No formal procedure is required to allow patients to move within the hospital or its grounds. Ground leave may be authorised by the nurse in charge and recorded in the nursing notes. The MHA 1983 states "Where

one building, or set of buildings, includes accommodation under the management of different bodies (eg two different NHS trusts), the accommodation used by each body should be treated as forming separate hospitals. Facilities and grounds shared by both can be regarded as part of both hospitals.”

Where the patient wishes to visit a public area on the NHS estate, such as a shop or café, this can be granted without section 17 leave as long as it is approved by the nurse in charge. An escort may be required if the patient’s risk assessment suggests that it is necessary.

4.2 Providing leave under section 17

Section 17 of the MHA 1983 applies to patients who are detained under sections 2,3,37 or 47. It can also be applied to patients who are subject to a restriction order (sections 41 or 49) with modifications.

Patients detained under sections 4, 5(2), 5(4), 35, 36 and 38 are not entitled to leave under s17 of the MHA 1983.

4.3 Duties of the Responsible Clinician (RC)

The RC is the approved clinician who has the final clinical responsibility for the management of a detained patient. Only the RC can grant leave to a patient or recall them to hospital. They cannot delegate the responsibility or the decision to anyone else.

In the absence of the RC (for example through annual leave or illness) permission can only be granted by the doctor who is an approved clinician **for the time being in charge of the patient’s treatment** and who therefore properly becomes the patient’s RC (Section 34(1) of the Act). Specific cover arrangements need to be in place so that the Deputising RC in these circumstances is clearly identified to all concerned.

For out of hours purposes, the Medical Advisory Committee has agreed that the on call Approved Clinician is the deputising RC.

A detained patient may only be out of hospital lawfully, for whatever purpose and whether escorted or not, if the RC has granted leave.

RC’s can grant leave for specific occasions or for specific or indefinite periods of time. The leave may be subject to conditions which the RC feels are necessary to protect the patient and/or other people. A form for recording the extent and parameters of leave is available and is demonstrated in Appendix 1.

4.4 Responsibilities of nursing staff

Nursing staff are responsible for ensuring that the section 17 leave form (Appendix 1) is correctly completed by the RC and that copies of the form have been given to the patient, the person escorting them and the local Mental Health Act Administrator. A copy must also be maintained in the legal section of the medical record.

4.5 Medical Emergencies and section 17 leave

In the event of a medical emergency requiring the patient to receive immediate treatment at an Acute hospital, nursing staff should prioritise the physical needs of the patient, any emergency transfer required should not be delayed by waiting for a form.

4.6 Leave under section 17 for part 2 patients (civil patients)

Part 2 patients will usually be detained under sections 2 and 3. A detained patient will require formal leave of absence under s17 whenever they are to leave the hospital; irrespective of whether the leave is escorted, an emergency (non medical) or being taken as part of the treatment plan. Leave can be extended in a patient's absence, but if the section lapses or is revoked, the s17 leave will cease to have effect as at that time.

4.7 Leave under section 17 for part 3 patients (forensic patients)

Under the Crime Sentences Act 1995, the courts can order that a patient be detained in a specific part of a hospital, which is usually chosen because of its security provisions. Formal leave of absence would be required to move to another part of the same hospital, ie Hadley Unit to Clifton Ward.

The Ministry of Justice Guidance issued in August 2007 is given below.

“When the Hospital order or prison transfer warrant names a specific ward/unit within a wider hospital in which a patient must be detained, the RC’s discretion to grant the patient ground leave or transfer is limited. In these circumstances, the RC can only grant the patient leave in the grounds of that particular unit, not the wider hospital. In addition, the RC cannot transfer the patient to another unit even if it is within the same hospital. For any leave or transfer outside the named unit the Secretary of State’s permission is needed, even if the leave or transfer is within the same hospital. RC’s should therefore pay close attention to the detail of detention authorities.”

4.8 Safeguarding

Where leave for detained patient would represent a risk of harm to children or a vulnerable adult and where the benefits of leave are considered in the patient's best interests, the Children's Safeguarding Team or the Adult Protection Team must be consulted. This information sharing must happen even if leave is not to the address where the children or vulnerable adult is normally resident.

If there is a child protection or children and young persons plan in place with an allocated social worker, leave information must be shared and agreed with the core group of professionals involved with the child/ren. If this is not the case then referral must be made to children's social care following child protection procedures. This is especially important where there has been any indication that the patient has delusional ideations

related to children or have made any indications that they would involve children in their suicide plans.

Leave cannot be granted until the risks to children can be assessed and plans put into place to protect within the appropriate legislative frameworks.

Similarly if a vulnerable adult is at risk of harm from leave being granted to a formally detained patient there must be an adult protection plan put in place via a referral under vulnerable adults' procedures. If there is already an adult protection plan in place then information must be shared with the other professionals involved with the vulnerable adult.

4.9 Custody/Escorted leave

Where the RC decides it is appropriate, they may direct that a patient remain in custody during their s17 leave. The patient can be kept in the custody of any officer on the staff of the hospital (or another person authorised in writing by the Managers of the hospital) or if being granted leave of absence to reside in another hospital, an officer on the staff of that hospital.

If the patient absconds from the custodian's care, they become AWOL immediately. It is not necessary to wait until they fail to return to the hospital to report them AWOL.

4.10 Duration of leave

Leave of a duration in excess of 7 days (taken consecutively or taken in total) may only be granted if the RC has first considered Supervised Community Treatment (s17a).

4.11 Consent to Treatment

Patients on leave continue to be subject to consent to treatment provisions of the MHA 1983.

4.12 Section 117 aftercare whilst on section 17 leave

If the detained patient is subject to detention under sections 3 or 37 of the MHA 1983, they will be entitled to have aftercare arrangements under section 117 made for them while they are on section 17 leave.

4.13 Renewal of detention whilst on section 17 leave

A patient's detention may be reviewed whilst they are on leave, even if the leave is for a substantial length of time and their contact with the hospital limited.

For a renewal of leave to be lawful, hospital treatment must represent a significant component of the plan for the patient. The patient should be discharged as soon as it is clear that detention under the MHA 1983 is no longer justified, leave should not be used as an alternative to discharge. The Care Quality Commission do not consider that it is appropriate to

detain a patient under s3 for the sole purpose of “granting immediate long term leave, or of placing him/her under supervised community treatment” (Leave of absence and transfer under the MHA 1983, CQC, 10 2008)

4.14 Sections 17 and 19

On occasion, a patient may take leave to a general hospital for a brief period of treatment under the provisions of s17. In this instance, the statutory powers remain with the RC at the originating hospital and the patient cannot be granted leave by anyone at the other hospital.

Patients transferring from one mental health hospital to another under different managers should transfer under section 19 (statutory form H4). If transferring a patient under s19, the hospital where the patient is transferring to must be registered for this under the Health & Social Care Act 2008.

5 RECALL TO HOSPITAL

The RC is entitled to recall the patient to hospital at any time if they feel it is necessary in the interests of the patient’s health or safety or for the protection of others. The RC is obliged to provide written notification to the patient, to the Care Coordinator and/or the person in charge of the patient for the time being that the leave is being revoked. The reasons for the recall should be fully explained to the patient and a record of this explanation should be kept in the patient’s notes together with a revised risk assessment and management plan. This should reflect the circumstances that necessitated the recall and that the action taken was proportionate to the risk.

A patient need not be recalled to hospital merely because they have refused to cooperate with some aspects of their treatment – medication, in particular - unless cooperation was a condition of the leave.

6 ABSENCE WITHOUT LEAVE (AWOL)

Please refer to Trust policy no CP0001 - Absence without Leave

6.1 Reporting of AWOL to the Care Quality Commission (CQC)

Since 01 April 2010, the Trust is obliged to report certain instances of AWOL to the CQC. With the exception of the Hadley Unit psychiatric intensive care unit, all Trust wards are classified as “general” security level.

On a “general” ward, any instances of AWOL over midnight must be reported to the CQC using their statutory reporting form.

On the Hadley Unit, any AWOL events must be reported to the CQC.

The ward manager is responsible for ensuring that instances of AWOL that meet the criteria specified above are reported to the Planning and Performance Department, using email to AWOL@worcsmhp.nhs.uk

7 REFERENCES AND FURTHER READING

Mental Health Act 1983 code of practice, chapter 21

Care Quality Commission guidance note 18; Leave of Absence and Transfer under the Mental Health Act 1983

AWOL policy CP0001

MENTAL HEALTH ACT 1983 – SECTION 17 LEAVE OF ABSENCE

PATIENT NAME	WARD
SECTION	HOSPITAL
SECTION EXPIRES	RESPONSIBLE CLINICIAN

DAY LEAVE	START DATE	REVIEW/END DATE	
ESCORTED/ACCOMPANIED	By:	DURATION OF LEAVE	
UNESCORTED	Date/times to be taken between:	DURATION OF LEAVE	
CONDITIONS/EXCLUSIONS			

OVERNIGHT OR EXTENDED LEAVE	START DATE		REVIEW/END DATE	
NAME OF PERSONS CONSULTED	ADDRESS OF OVERNIGHT LEAVE			

CONDITIONS/EXCLUSIONS

If S17 leave has been approved for more than 7 days, has a CTO been considered? Yes/No

BEHAVIOUR / RISK FACTORS THAT WILL LEAD TO SECTION 17 LEAVE BEING WITHHELD

The conditions of my leave have been explained to me and I confirm that I will abide by them. I understand that if I do not meet the conditions, this leave entitlement may be withdrawn.

PATIENT SIGNATURE	DATE
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RESPONSIBLE CLINICIAN SIGNATURE	DATE
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IF LEAVE REVOKED PLEASE RECORD DATE

NOTE FOR ESCORTS OR ACCOMPANYING PERSONS:

In case of difficulty, contact

on telephone number

WARD STAFF, COPIES TO

PATIENT MHA ADMINISTRATOR

NEAREST RELATIVE/CARER CASE NOTES