SECTION 17 MENTAL HEALTH ACT LEAVE POLICY

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Policy Author	Mental Health Act (MHA) & Mental Capacity Act (MCA) Lead
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'During the COVID19 crisis, please read the policies in conjunction with any updates provided by National Guidance, which we are actively seeking to incorporate into policies through the Clinical Ethics Advisory Group and where necessary other relevant Oversight Groups'

DOCUMENT HISTORY

(Procedural document version numbering convention will follow the following format. Whole numbers for approved versions, e.g. 1.0, 2.0, 3.0 etc. With decimals being used to represent the current working draft version, e.g. 1.1, 1.2, 1.3, 1.4 etc. For example, when writing a procedural document for the first time – the initial draft will be version 0.1)

Date of Issue	Version No.	Date Approved	Director Responsible for Change	Nature of Change	Ratification / Approval
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21 May 2021	6.0	9 Oct 2018	Director for Mental Health & Learning Disabilities	Extended policy uploaded and linked back with new cover sheet	Corporate Governance
24 June 2021	7.0		Director for Mental Health & Learning Disabilities	Policy Review	Document Control Group
1 Sept 2021	7.0	27 August 2021	Director for Mental Health & Learning Disabilities	Ratified and approved at	Clinical Standards Group

NB This policy relates to the Isle of Wight NHS Trust hereafter referred to as the Trust

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1 Executive Summary

This policy applies to all Responsible Clinicians (RCs) who authorise the use of Section 17 leave of the Mental Health Act 1983, as amended by the Mental Health Act 2007 to detained patients. It also applies to nursing staff that manage the use of leave granted by the RC, recording the use in the patient's notes.

It identifies the expectations of how Section 17 leave will be implemented within the Trust to meet both legal requirements and agreed local practices. Its purpose is to give procedural guidance to staff in the implementation of these requirements.

The RC grants leave to detained patients by completing and signing a locally designed Section 17 leave form. Leave parameters and conditions are recorded on the Section 17 leave form.

Leave should only be granted after careful planning, risk assessment and consultation with the patient, carers / relatives and the patient's care coordinator where appropriate to identify their needs during leave. Patients should only be granted leave if their clinical state permits it. Nursing staff should assess a patient's clinical state before each and every instance of leave.

The RC can recall patients from leave if it is in the interests of the patient's health or safety or necessary for the protection of others. Patients who fail to return to the ward within the agreed time are considered absent without leave (AWOL).

2 Introduction

Responsible Clinicians (RCs) may give Mental Health Act (MHA) Part 2 and unrestricted Part 3 patients leave to be absent from the hospital in which they are detained, subject to any conditions they think are necessary in the interests of the patient or for the protection of other people.

This policy is for all staff working within mental health services to assist them in the management of people detained under the Mental Health Act 1983, as amended by the Mental Health Act 2007, requiring Section 17 leave.

3 Definitions

AC **Approved Clinician:** A senior mental health professional who has been approved to act as *Responsible Clinician* for patient's subject to the *MHA*.

AWOL **Absent without leave:** applies to patients who are liable to be detained under the *MHA* and have either left hospital without the *RC*s approval or failed to return from a period of authorised leave.

Care Co-ordinator: The member of the patient's care team who takes responsibility for arranging the patients care plan under *CPA*.

CPA **Care Programme Approach:** The system under which care is provided for patients in contact with mental health services.

COP **Code of Practice:** The Code of Practice that guides all staff in mental health services on discharging duties under the *MHA*.

CTO **Community Treatment Order:** order under section 17a *MHA* requiring a patient to receive treatment in the community.

MHA **Mental Health Act 1983 as amended by the Mental Health Act 2007:** the law that regulates the admission to hospital and treatment of mentally disordered persons whose liberties need to be restricted.

MOJ **Ministry of Justice:** the government department responsible for patients detained under criminal justice sections (Part III of the *MHA*).

RC **Responsible Clinician:** an *Approved Clinician* who is in charge of the treatment of a patient subject to the *MHA*.

Sections References to sections in this policy relate to the relevant section of the MHA.

4 Scope

In particular, this Policy should apply to patients' Responsible Clinicians and Nursing Teams and should be used as a procedural guidance in accordance with Section 17 leave.

5 Purpose

This policy aims to ensure that detained patients are given treatment in the least restrictive way, in particular that they are enabled to leave the hospital for specific purposes and specified periods, consistent with maintaining their health, their safety and the safety of others.

6 Roles and Responsibilities

6.1 Responsible Clinicians:

- will complete Section 17 leave forms for all detained patients requiring leave.
- will consider use of a Community Treatment Order (CTO) before granting leave of more than seven days.

6.2 Nursing staff:

- will record leave in the patient's notes.
- will assess the risks presented by a patient prior to the patient going on leave, where leave has been granted at their discretion.

7 Policy detail/Course of Action

7.1 When leave can be granted by the Responsible Clinician (RC)

An RC can grant leave to patients on Sections 2, 3, 37, 47, or 48. It is not considered good practice to grant extended leave of absence for patients detained under Section 2, as this is intended to provide for a short period of intensive assessment.

Patients on Sections 35, 36 and 38 cannot be granted leave of absence without the permission of the Court involved.

Patients on Sections 37/41, 47/49 and 48/49 cannot be granted leave of absence without the permission of the Ministry of Justice (MOJ). The RC should write to the MOJ well in advance requesting approval for leave. The MOJ has specific guidance which can be found on the MOJ website https://www.gov.uk/government/collections/mentally-disordered-offenders along with the forms the RC must use to request leave.

Leave may only be granted by the RC and this cannot be delegated to other clinicians. The RC may authorise short periods of leave to be taken at the discretion of ward staff.

The RC grants the detained patient leave by completing the local Section 17 leave form (See Appendix A).

7.2 Planning Section 17 Leave

Patients on Section 17 leave are entitled to aftercare under Section 117. Leave should only be granted after careful planning, risk assessment and consultation with the patient, carers / relatives and the patients care coordinator where appropriate to identify their needs during leave.

See Recommendation 36, MHAC 9th Biennial Report

The MHA 1983 Code of Practice advises on good practice in Chapter 27. In particular, it emphasises that:

- leave is an important part of a patient's treatment plan;
- the patient should be involved in the decision to grant leave and should be asked to consent to any consultation with others that is considered to be necessary; and
- leave should be well planned, as far in advance as possible.

Patients should only be granted leave if their clinical state permits it, if their care has been properly planned, and with due regard to their own safety and that of others. Leave of absence should be seen as an integral part of a patient's treatment and management.

Nursing staff should assess a patient's clinical state before each and every instance of leave, even if the taking of leave is not contingent upon their approval. In particular an up-to-date risk assessment must be undertaken before leave is granted. This should pay particular attention to the risk that a patient poses to him/herself or to others (especially any children with whom s/he might come into contact). This risk assessment must be recorded in the patient's notes. If staff have significant concerns, they should withhold leave pending advice from the RC.

7.3 Escorted Leave

The RC may direct that a patient remains or is placed in custody whilst on leave. Any member of staff may then escort the patient whilst on leave and will have powers to detain and convey the patient if the conditions of leave are broken.

If the patient is to be escorted by someone other than a member of staff, the care team need to decide whether it is appropriate to give this person the authority normally held by staff. If this is to be the case, written authority must be provided to that person from the Hospital Managers. In the absence of such authority it would be more appropriate to use the term "accompanied" rather than "escorted".

MHAC's concerns raised at para 4.25 of the 9th Biennial Report.

It is local policy for the person (usually a friend or relative) accompanying the patient on leave to sign and to receive a copy of the Section 17 leave form. This will ensure they are aware of the leave parameters. Nursing staff should ensure that this person also knows how to contact the ward should they need to in an emergency.

7.4 Leave to the main St Mary's Hospital or Hospital ground leave

A leave form must be completed when a patient requires treatment in the main St Mary's Hospital or another hospital, for example for medical treatment or for an outpatient appointment.

There are no legal formalities required when a detained patient has leave in the hospital grounds, however for sake of clarity of the conditions for both the patient and for those escorting the patient a leave form will be completed.

7.5 Duty to consider Community Treatment Order (CTO) before granting longer term leave

RCs may not grant longer term leave to patients without first considering whether the patient should instead become a Community patient by means of a Community Treatment Order (CTO).

Longer term leave is leave granted for a period of more than seven consecutive days. The requirement to consider CTO does not mean that the RC cannot use longer-term leave if that is the more suitable option, but the RC will need to able to show that both options have been considered.
See COP 27.11 – 27.14

Reasons for granting longer-term leave must be stated on the Section 17 leave form (Appendix A).

7.6 Recall to hospital

The RC may recall a patient from leave at any time if it is in the interests of the patient's health or safety or necessary for the protection of others. In such circumstances the RC must provide written notification to the patient. See Appendix B for a template letter. The reasons for the recall should be explained to the patient and a record of the explanation kept in the patient's notes.
See Code of Practice 27.32 – 27.36, CQC Guidance Note para 4

A refusal to co-operate with treatment may not on its own be a reason for recall to hospital, unless such co-operation has been made a condition of leave.

Patients who refuse to return to hospital after being recalled to hospital are considered absent without leave (AWOL). Nursing staff should refer to the Section 18, AWOL Policy for more guidance.

7.7 Renewal of the authority to detain

A period of leave cannot last longer than the duration of authority to detain. A patient cannot be recalled back from leave for the sole purpose of renewing their detention. The key issue on renewal is whether there is an in-patient element in the patient's treatment plan.
See CQC Guidance Note para 4; Code of Practice 27.37

7.8 Record keeping and setting clear conditions

Leave of absence should be recorded in the patient's notes and on the Section 17 leave form (see Appendix A) and a copy given to the patient, carer (if the patient does not object) and any professionals in the community. Whenever a new Section 17 leave form is completed by the RC that supersedes the existing form, the superseded form must be crossed through.

The time the patient is expected back on the ward should also be recorded and known to staff.
It should be standard practice to note in the nursing records:

- every occasion when leave is taken;
- the circumstances under which leave is taken (for example, whether the patient is escorted, and if so, by whom);
- the date and time at which the patient departs; and
- the date and time by which the patient must return.

The outcome of leave should be written in the patient's notes. Particular note should be made of concerns raised by any escorting staff, by the patient, or by relatives or friends. This will enable any future discussion of leave to be fully informed.

The Code of Practice requires that a clear up-to-date description of the patient's appearance should be available in the patient's notes. This information should be recorded in the admission core details part of the patient's notes.

Clearly defined parameters, including any conditions, should be recorded on the Section 17 Leave Form. Suggested examples of conditions are: -

I. Time Restrictions

a. Not to be out in public before or after a specified time
b. To return to Ward by a specified time

II. Restricted contact

Not to make contact with

a. Wife/Husband
b. Ex Partners
c. Own children
d. Mother or Father
e. Children in general etc.

III. Restricted movement

To be restricted a radius of not more than a specified distance from

a. The Unit
b. The place of residence
c. The home town
d. The County etc

IV. Restricted venues

Not to visit

a. Homes of particular relatives
b. Friends
c. Schools & Nurseries
d. Football grounds
e. Public Houses
f. Hazardous places
g. Parks
h. Swimming Pools
i. Public Toilets
j. Parks or Play Grounds

V. Restricted practices

Not to

a. Drive a car
b. Drive a Motor Bike
c. Use machinery
d. Use or carry
    i. Street drugs
    ii. Alcohol
    iii. Other substances i.e. Lighter fuel, Glue etc
    iv. Offensive weapons etc

VI. Restricted behaviour

Not to indulge in

a. Unacceptable behaviour, sexual or otherwise
b. Not to make nuisance or abusive phone calls
c. To refrain from aggressive behaviour to individuals or to the public in general
d. Attempts at self-harm etc.

VII. General

a. To abide by all conditions laid down by the Home Office.
b. To abide by all conditions in a Criminal Behaviour Order.

c. Whilst on leave to take all prescribed medication as directed by the staff
d. Discuss leave with staff.
e. To attend a specific venue, clinic or hospital appointment.
f. To provide a urine drug screening sample on leaving/return the ward.
g. To be accompanied by family/friends, or to be escorted by staff.
h. To respond correctly to requests from the person designated as being responsible for you whilst on leave.
i. To make prompt contact with the Ward /Units staff if there is a problem.
j. To return to the ward at the designated time.

NB. Failure to observe the conditions of leave will result in the cancellation of leave.
All of the above are at the discretion of the nurse in charge of the shift when leave is due to start.

7.9 Treatment whilst on Section 17 Leave

A patient on Section 17 leave remains subject to Part IV of the Act and its consent to treatment provisions. See also, Recall to Hospital above.

8 Consultation

This policy is a revision of an existing approved policy with only minor changes reflecting some legal amendments. It has been circulated to the Clinical Standards Group prior to approval.

9 Training

This policy meets the requirements set out under the Mental Health Act which is implemented within the Trust. Trained Mental Health nursing staff attend mandatory Mental Health Act training every two years, which includes Section 17 Leave.

This Policy on the Use of Mental Health Act Section 17 Leave has a mandatory training requirement which is detailed in the Trust mandatory training matrix and is reviewed on a yearly basis.

10 Monitoring Compliance and Effectiveness

Section 17 leave forms are scrutinised by the Mental Health Act Administrator and errors are promptly amended.

Regular monitoring and audit of the use of Section 17 leave will be carried out, paying particular attention to the documentation of risk-assessments and authorised leave and these audits will be reported to the MHA scrutiny committee.

11 Links to other Organisational Documents

Section 18 Mental Health Act 1983 Absence Without Leave (AWOL) Policy

12 References

Mental Health Act Code of Practice (2015) Chapter 27
Richard Jones, Mental Health Act Manual
MHAC 9th Biennial Report 4.23 – 4.25
CQC Leave of absence and transfer under the MHA 1983, Guidance note

13 Appendices

Appendix A Section 17 leave form

Appendix B Recall to hospital template letter

Appendix C Financial and Resourcing Impact Assessment on Policy Implementation

Appendix D Equality Impact Assessment (EIA) Screening Tool

Appendix A

ISLE OF WIGHT NHS TRUST

SECTION 17 LEAVE OF ABSENCE - MENTAL HEALTH ACT 1983, AS AMENDED BY THE MENTAL HEALTH ACT 2007

I,_____ being the Responsible Clinician, do hereby give permission to

_____(Patient Name), who is presently on

_____Ward and detained under Section

_____ of the Mental Health Act, to be on leave during his/her period of detention as follows: -

Date Section 17 leave granted (Today's date)		**Date Section 17 leave to be reviewed**	

A. Repeated short leave (Not including overnight)

Start Date: _____ Finish Date: _____

Up to _____ hours, between _____ (time) and _____ (time)

Conditions of leave, if any, are as follows: (Please refer to Example sheet)

B. Specific periods of leave including overnight

From: Date/time: _____ To: Date/time: _____

13.1.1.1.1 If longer than 7 days, give reasons for not using a CTO (see notes overleaf)

Address where he/she is staying (if overnight):

Telephone No.

Conditions of leave, if any, are as follows: (Please refer to Example sheet)

If any conditions are breached or concerns arise then the ward should be contacted on _____

Signatures: - Applies to A and B

Signed _____ Date _____

Responsible Clinician (RC)

I agree to the leave arrangements made by the Responsible Medical Officer

Signed _____ Date _____
(**Service user**)

Signed _____ Date _____
(**Family member/Carer/Volunteer**)

Distribution of copies (Tick boxes where copies have been given)

Pink (original) copy MHA Office

Patient ☐

Patient's case notes ☐

Community Team/Support Worker ☐

Family member / Carer or Volunteer ☐

Notes for Responsible Clinicians

For full guidance, please refer to Chapter 21 of the Code of Practice.

The following notes are to clarify the application of the Code to the local configuration of services and hospital units.

- Patients detained in hospital can only leave lawfully if given leave of absence by the Responsible Clinician (RC) under Section 17 of the Act.
- Movement of patients within the grounds of a hospital does not normally require formal permission or procedures (with the exception of certain restricted patients).
- For local purposes, only the immediate area adjacent to Sevenacres is regarded as hospital grounds. For patients to move further afield (e.g. to the wider hospital campus, including the open grounds and the General Hospital wards and departments) a Section 17 Leave authorisation must be given.
- Only the Responsible Clinician can authorise leave of absence under Section 17. This power cannot be delegated. Where the usual RC is on leave (or during out of hours), the Approved Clinician who is providing cover may grant permission.
- Where leave of absence for more than seven consecutive days is being granted, the RC should first have considered whether a Community Treatment Order (CTO) would be more appropriate (this does not apply if the patient is detained under Section 2, as they are not eligible for CTO). Reasons for using Section 17 leave instead of CTO should be recorded in the patient's notes. Further guidance on this is available in Chapter 28 of the Code of Practice.

Notes for nursing staff

Nursing staff should assess a patient's clinical state before each and every instance of leave, even if the taking of leave is not contingent upon their approval. In particular an up-to-date risk assessment must be undertaken before leave is granted. This should pay particular attention to the risk that a patient poses to him/herself or to others (especially any children with whom s/he might come into contact). This risk assessment must be recorded in the patient's notes. **If staff have significant concerns, they should withhold leave pending advice from the RC.**

It is local policy for the person (usually a friend or relative) accompanying the patient on leave to sign and to receive a copy of the Section 17 leave form. This will ensure they are aware of the leave parameters. **Nursing staff should ensure that this person also knows how to contact the ward should they need to in an emergency**.

Whenever a new Section 17 Leave Form is completed by the RC that supersedes the existing form, the superseded form must be crossed through.

Revised Section 17 leave form July 2010 (ES)

Appendix B

Sevenacres
St Mary's Hospital
NEWPORT
Isle of Wight
PO30 5TG

Date:

PRIVATE AND CONFIDENTIAL

Dear

I am writing to inform you of the decision to recall you from your Section 17 of the Mental Health Act 1983 as amended by the Mental Health Act 2007.

The reason(s) for this decision is:

_____

_____

_____

_____

_____

Yours sincerely

Responsible Clinician

c.c. Patient records

Appendix C

Financial and Resourcing Impact Assessment on Policy Implementation

NB this form must be completed where the introduction of this policy will have either a positive or negative impact on resources. Therefore, this form should not be completed where the resources are already deployed, and the introduction of this policy will have no further resourcing impact.

Document title	**MENTAL HEALTH ACT SECTION 17 LEAVE POLICY**

Totals	**WTE**	**Recurring £**	**Non-Recurring £**
Manpower Costs			
Training Staff			
Equipment & Provision of resources			

Summary of Impact:

Risk Management Issues:

Benefits / Savings to the organisation:

Equality Impact Assessment

- Has this been appropriately carried out? YES/NO
- Are there any reported equality issues? YES/NO

If "YES" please specify:

Use additional sheets if necessary.

Please include all associated costs where an impact on implementing this policy has been considered. A checklist is included for guidance but is not comprehensive so please ensure you have thought through the impact on staffing, training and equipment carefully and that ALL aspects are covered.

Manpower	**WTE**	**Recurring £**	**Non-Recurring £**
Operational running costs			
Totals:			

Staff Training Impact	**Recurring £**	**Non-Recurring £**
Totals:		

Equipment and Provision of Resources	**Recurring £ ***	**Non-Recurring £ ***
Accommodation / facilities needed		

Building alterations (extensions/new)		
IT Hardware / software / licences		
Medical equipment		
Stationery / publicity		
Travel costs		
Utilities e.g. telephones		
Process change		
Rolling replacement of equipment		
Equipment maintenance		
Marketing – booklets/posters/handouts, etc		
Totals:		

- Capital implications £5,000 with life expectancy of more than one year.

Funding /costs checked & agreed by finance:	
Signature & date of financial accountant:	
Funding / costs have been agreed and are in place:	
Signature of appropriate Executive or Associate Director:	

Appendix D

Equality Impact Assessment (EIA) Screening Tool

Document Title:	MENTAL HEALTH ACT SECTION 17 LEAVE POLICY
Purpose of document	To provide guidance to staff on the use of leave of absence for detained patients.
Target Audience	All inpatient staff in mental health.
Person or Committee undertaken the Equality Impact Assessment	*Stephen Ward, MHA & MCA Lead*

1. To be completed and attached to all procedural/policy documents created within individual services.

2. Does the document have, or have the potential to deliver differential outcomes or affect in an adverse way any of the groups listed below?

If no confirm underneath in relevant section the data and/or research which provides evidence e.g. JSNA, Workforce Profile, Quality Improvement Framework, Commissioning Intentions, etc.

If yes, please detail underneath in relevant section and provide priority rating and determine if full EIA is required.

		Positive Impact	**Negative Impact**	**Reasons**
Gender	Men			
	Women			
Race	Asian or Asian British People			
	Black or Black British People			
	Chinese people			
	People of Mixed Race			
	White people (including Irish people)			
	People with Physical Disabilities, Learning Disabilities or Mental Health Issues		*Yes*	*It only applies to persons with a mental disorder who are detained in hospital and will enable them to have leave of absence when appropriate.*

Sexual Orientation	Transgender			
	Lesbian, Gay men and bisexual			
Age	Children			
	Older People (60+)			
	Younger People (17 to 25 yrs)			
Faith Group				
Pregnancy & Maternity				
Equal Opportunities and/or improved relations				

Notes:
Faith groups cover a wide range of groupings, the most common of which are Buddhist, Christian, Hindus, Jews, Muslims and Sikhs. Consider faith categories individually and collectively when considering positive and negative impacts.

The categories used in the race section refer to those used in the 2001 Census. Consideration should be given to the specific communities within the broad categories such as Bangladeshi people and the needs of other communities that do not appear as separate categories in the Census, for example, Polish.

3. Level of Impact

If you have indicated that there is a negative impact, is that impact:			
		YES	**NO**
Legal (it is not discriminatory under anti-discriminatory law)			
Intended			

If the negative impact is possibly discriminatory and not intended and/or of high impact, then please complete a thorough assessment after completing the rest of this form.

3.1 Could you minimise or remove any negative impact that is of low significance? Explain how below:	
3.2 Could you improve the strategy, function or policy positive impact? Explain how below:	
3.3 If there is no evidence that this strategy, function or policy promotes equality of opportunity or improves relations – could it be adapted so it does? How? If not, why not?	
Scheduled for Full Impact Assessment	Date:
Name of persons/group completing the full assessment.	
Date Initial Screening completed	