Plymouth Community Healthcare CIC

Mental Health Act 1983
Leave of Absence Section 17 Policy

Version No 1:6

Notice to staff using a paper copy of this guidance

The policies and procedures page of PCH Intranet holds the most recent version of this document and staff must ensure that they are using the most recent guidance.

Author: **Mental Health Act Manager**

Asset Number: **738**

Reader Information

Title	Mental Health Act 1983 Leave of Absence Section 17 Policy v1:6
Asset number	738
Rights of access	Public
Type of paper	Policy
Category	Clinical
Document purpose/summary	Policy to assist professionals in understanding their responsibilities when granting or monitoring the effects of Section 17 leave. This policy reflects the requirements of the Code of Practice 2008.
Author	Mental Health Act Manager
Ratification date and group	16th September 2015. Policy Ratification Group.
Publication date	17th September 2015.
Review date and frequency (one, two or three years based on risk assessment)	Two years after publication, or earlier if there is a change in evidence.
Disposal date	The Policy Ratification Group will retain an e-signed copy for the archive in accordance with the Retention and Disposal Schedule. All copies must be destroyed when replaced by a new version or withdrawn from circulation.
Job title	Mental Health Act Manager
Target audience	Responsible Clinicians and other Mental Health Professionals who are involved in providing care and treatment for patients who may be granted Section 17 leave.
Circulation	Electronic: PCH intranet and website (if applicable) Written: Upon request to the PRG Secretary on ☏ 01752 435104. Please contact the author if you require this document in an alternative format.
Consultation process	Review of existing policy to reflect changes to the Mental Health Act and the Code of Practice. Ward Managers and Team Managers.
Equality analysis checklist completed	Yes
References/sources of information	The Mental Health Act 1983 (as amended by Mental Health Act 2007) Department of Health, the Code of Practice, Mental Health Act 1983, 2008 Department of Health, Reference Guide, Mental Health Act 1983, 2008
Associated documentation	N/A
Supersedes document	Mental Health Act 1983 Leave of Absence Section 17 Policy 2002
Author contact details	By post: Local Care Centre Mount Gould Hospital, 200 Mount

	Gould Road, Plymouth, Devon. PL4 7PY. Tel: 0845 155 8085, Fax: 01752 272522 (LCC Reception).

Document review history

Version no.	Type of change	Date	Originator of change	Description of change
0.1	New document	February 2009	Mental Health Act Manager	To reflect changes to the MHA 2007 and the Code of Practice 2008.
1	Minor amendments/formatting changes	April 2009	Policy ratification group secretary	Formatting/updating/clarifying
1:1	Minor amendment	August 2009	MHA Manager	Changes to paragraph 2:2
1.2	Review, minor amendments and additional information	July 2012	MHA Manager	Additional paragraphs - The Domestic Violence, Crime and Victims Act. Extended S17 Leave or Community Treatment Order. Patients Absent Without Leave.
1.3	Extended	June 2014	MHA Manager	Extended, no changes.
1.4	Review and amendments to form	July 2014	MHA Manager	Amendment to Form. Additional information regarding S17 leave and restricted patients. Flow chart regarding recall and obtaining a warrant.
1.5	Amendment.	January 2015	MHA Manager	Paragraph 7.2 amended.
1.6	Review and amendments	July 2015	MHA Manager	Following the revised Code of Practice 2015

Mental Health Act 1983 Leave of Absence Section 17 Policy

1 Introduction

1.1 Any course of action taken under the Mental Health Act 1983 (MHA'83) (as amended) must be done with consideration to the Guiding Principles contained within chapter 1 of the Code of Practice Revised 2015 (the Code). https://www.gov.uk/government/publications/code-of-practice-mental-health-act-1983

All professionals involved with the care and treatment of persons who are eligible and granted Section 17 Leave (S17) must be familiar with the Principles contained in chapter 1 of the Code.

The Guiding Principles are:

- Least restrictive option and maximising independence.
- Empowerment and involvement.
- Respect and dignity.
- Purpose and effectiveness.
- Efficiency and equity.

All professionals working with individuals detained under the Mental Health Act 1983 (MHA'83) should have detailed knowledge of the MHA'83 Code of Practice (revised 2015) the Code including its purpose, function and scope. Chapter 27 of the Code is of particular importance relating to this policy. This chapter gives guidance on who has the power to grant leave of absence, short- and long-term leave, escorted leave, leave to reside in other hospitals, and recall from leave. It also draws attention to differences when considering leave of absence, including short-term leave for restricted patients. Where this chapter uses the term "should" departures should be documented and recorded. Where the terms "may", "can" or "could" are used the guidance is to be followed wherever possible.

1.2 The Code provides statutory guidance to registered medical practitioners ('doctors'), approved clinicians, managers and staff of providers and approved mental health professionals (AMHPs) on how they should proceed when undertaking duties under the Act. These professionals should have detailed knowledge of the Code, including its purpose, function and scope. Whilst the Act does not impose a legal duty to comply with the Code those listed must have regard to the Code. Any departure from the Code could give rise to legal challenge; therefore the reasons for departure must be recorded and sufficiently convincing in order to justify the departure.

1.3 This policy is reflective of the guidance provided in the Code, chapter 27 **Leave of Absence.** Further information is also contained in the MHA'83 Reference Guide (revised 2015) chapter 25 **Leaving Hospital.**

2 Purpose

2.1 The purpose of this policy is to provide professionals with information and guidance to assist them in understanding their responsibilities when granting S17 leave.

2.2 This policy will identify the principles and purposes of S17 leave, the planning requirements of granting S17 leave and the documentation associated with recording the use and outcome of S17 leave.

2.3 In general, while patients are detained in a hospital they can only leave lawfully – even for a very short period –if they are granted leave of absence by their Responsible Clinician (RC) under S17 of the MHA'83.

2.4 Except for restricted patients, no formal procedure is required to allow patients to move within a hospital or its grounds. Such "ground leave" within a hospital may be encouraged or, where necessary, reduced, as part of each patient's care plan.

2.5 S17 leave will be required for all patients who leave their units (including Glenbourne) to go to Derriford Hospital. It is also required for those patients who leave one of the PCHs' units to go to another on a temporary basis with the exception of all the wards and units which are on the Mount Gould site. Further guidance regarding leave to Derriford Hospital is available on the intranet in the Transfer of Adult patients with Mental Health needs – Joint Guidance.

2.6 Patients will also lawfully be absent from hospital if they are being transferred to another place under the Act, or under another piece of legislation. This would include, for example, patients being transferred to another hospital under Section 19 of the MHA'83, or patients who are required to attend court.

3 Duties

3.1 It is the duty of all persons who are involved in the care and treatment of those detained under the Mental Health Act 1983 (MHA'83) to work within the legal framework of the Act, apply the Principles of the Code and unless there are cogent reason for doing so, not depart from the guidance contained in the Code. This duty extends to the care and treatment of patients who are liable to be detained i.e. may not be continuously in hospital but are granted leave of absence from hospital under S17.

3.2 This policy reflects the legal duties of the Responsible Clinician regarding the granting of S17 leave.

4 Definitions

4.1 "Section 17 Leave of Absence" is permission for a patient who is detained in hospital to be absent from the hospital for periods of time. This can only be granted by the Responsible Clinician.

4.2 "Responsible Clinician" is the Approved Clinician with overall responsibility for a patient's case.

4.3 "Approved Clinician" is a mental health professional who has undertaken specific Mental Health Act approved by the Secretary of State.

4.4 "Mental Capacity Act 2005" governs decision-making on behalf of people who lack capacity to make there own decisions.

4.5 "Absent Without Leave" (AWOL) is when a detained patient leaves hospital, or a place they are required to be at as part of the conditions of S17 leave, without obtaining the permission of the RC.

4.6 "Supervised Community Treatment" (SCT) means that a patient can be discharged from detention in hospital under the MHA'83, but remain subject to the MHA'83 in the community rather than in hospital. Patients on SCT are expected to comply with conditions set out in the Community Treatment Order (CTO) and can be recalled to hospital if treatment in hospital is necessary.

4.7 "Consent to Treatment - Part IV" is concerned with the medical treatment for mental disorder of detained patients. In particular, it sets out when they can and cannot be treated for their mental disorder without their consent.

4.8 The Code of Practice is produced by the Department of Health as required by Section 118 of the Act.

5 Power to Grant Leave

5.1 Only the patient's RC can grant leave of absence. The decision to grant leave cannot be delegated.

5.2 In the absence of the usual RC (e.g. if they are sick or on leave), S17 leave can only be granted by the Approved Clinician (AC) who is for the time being acting as the patient's RC. The RC must make the ward or unit aware of who will be covering for their patients whilst they are absent.

5.3 Reasons confirming why the covering RC may not grant S17 must be documented in the records, i.e. long term care management, risk to themselves or others, accommodation issues, likelihood of absconding.

6 Sections Applicable to Section 17 Leave

6.1 The RC may grant leave of absence to patients detained under section 2 - Admission for assessment, section 3 - Admission for treatment or

section 37 – Powers of courts to order hospital admission or guardianship. It is not good practice to grant extended periods of leave to S2 patients due to the nature of the section (to allow for a short period of intensive assessment). Extended periods of leave could be described as more than 3 consecutive days and nights.

6.2 Patients detained under section 35,[1] section 36[2] and section 38[3]cannot be granted leave by the RC.

6.3 The RC may not grant leave of absence to patients detained under section 37/41[4], 47/49[5] and 48/49[6] (Restricted patients) without the permission of the Ministry of Justice.

6.4 Leave of absence does not apply to short-term sections - 4[7], 5(2)[8], 5(4)[9], 135[10], 136[11].

7 Different Types of Leave

7.1 Section 17(1) - **Leave of absence** - May be subject to such conditions, as the RC considers necessary. Leave may be granted for specific occasions, times or longer indefinite periods of time. For example, the RC may grant leave for one specific outing or they may grant extended leave for several days or weeks at a time. However, it should be noted that while extended leave may be used to assess a patient's suitability for discharge from detention, it should not be used as an alternative to discharging the patient. (See Paragraph 10 regarding the use of Supervised Community Treatment (SCT).

7.2 Section 17(2) - **Local discretionary leave** - This type of leave may be used to authorise regular periods of short term leave. For example, the RC could grant 2 hours of leave per day for shopping. These periods of leave are at the discretion of the Registered Nurse after assessment of risk and suitability. Should the Registered Nurse decide that on any one day leave should not be granted leave, they may withhold it, even though the RC has authorised it. The RC must be informed of the reasons for the withholding of leave. The reasons are to be recorded in the patient's daily record. The RC will need to review whether the previously granted leave is still appropriate. Unless specified, leave should not be broken down to shorter but more frequent periods I.e. 1 hour leave should not be used as 4 x 15 minute periods.

[1] MHA s35 - Remand to hospital for report on accused's mental condition
[2] MHA s36 - Remand of accused person to hospital for treatment
[3] MHA s38 - Interim hospital order
[4] MHA s37/41 - Powers of courts to order hospital admission or guardianship, and Power of higher courts to restrict discharge from hospital
[5] MHA s47/49 - Removal to hospital of persons serving sentences of imprisonment, etc. and Restriction on discharge of prisoners removed to hospital
[6] MHA s48/49 - Removal to hospital of other prisoners and Restriction on discharge of prisoners removed to hospital
[7] MHA s4 - Admission for assessment in cases of emergency
[8] MHA s5(2) - Application in respect of patient already in hospital – (Doctors holding powers)
[9] MHA s5(4) - Application in respect of patient already in hospital – (Nurses holding powers)
[10] MHA s135 - Warrant to search for and remove patients
[11] MHA s136 - Mentally disordered persons found in public place

Unless there are exceptional circumstances leave should not be taken before 10:00hrs and after 20:00hrs**.**

7.3 Section 17(3) - **Leave of absence to another hospital.** Where the patient requires leave of absence to another hospital for planned treatment (i.e. outpatient appointments); it should be granted in advanced. If necessary the RC may direct the patient remains escorted at all time. The provision of the escort may need to be agreed with the treating hospital in advance.

7.4 In the event of a medical emergency the common law doctrine of necessity and the Mental Capacity Act 2005, will provide authority for a mentally incapacitated patient to be moved to the general hospital. The S17 leave form may be completed at the earliest opportunity after the event. It has been agreed with Derriford Hospital that if the patient will be returning to Plymouth Community Healthcare services they will not be transferred under section 19 of the Mental Health Act, but will be moved under S17 leave. (See Guidance Note Appendix D). The patient's RC will continue to be responsible for their mental health needs whilst they are an inpatient at Derriford and must ensure that the patient is seen weekly as part of the normal ward round.

7.5 When a person is moved to another hospital managed by different hospital managers for the purpose of assessment or rehabilitation it is usual that they may wish to have the patient for a trial period before agreeing to a formal transfer under section 19. In these cases the RC of the detaining hospital will continue to be the patient's RC. This means that they will continue to be responsible for the granting of further leave, consent to treatment issues and renewal of the section if applicable. However, before authorising leave on this basis, RCs should consider whether it would be more appropriate to transfer the patient to the other hospital instead (see chapter 37 of the Code). An AC in charge of any particular aspect of the patient's treatment may be from either hospital. (For further guidance on allocating RCs see chapter 36 of the Code).

7.6 Leave is required if the patient is spending time at another unit or ward managed by Plymouth Community Healthcare. Transfer under section 19 is not required. Leave must continue to be authorised until the transfer of care from the first RC to the new one takes place. Once the transfer of care has taken place leave is no longer required other than as per normal circumstances.

7.7 Leave of absence can be an important part of a detained patient's care plan, but can also be a time of risk. When considering and planning leave RCs should:

- consider the benefits and any risks to the patient's health and safety of granting or refusing leave
- consider the benefits of granting leave for facilitating the patient's recovery
- balance these benefits against any risks that the leave may pose for the protection of other people (either generally or particular people)

- consider any conditions which should be attached to the leave, e.g. requiring the patient not to visit particular places or persons
- be aware of any child protection and child welfare issues in granting leave
- take account of the patient's wishes, and those of carers, friends and others who may be involved in any planned leave of absence
- consider what support the patient would require during their leave of absence and whether it can be provided
- ensure that any community services which will need to provide support for the patient during the leave are involved in the planning of the leave, and that they know the leave dates and times and any conditions placed on the patient during their leave
- ensure that the patient is aware of any contingency plans put in place for their support, including what they should do if they think they need to return to hospital early
- liaise with any relevant agencies, e.g. the sex offender management unit (SOMU)
- undertake a risk assessment and put in place any necessary safeguards, and
- (in the case of part 3 patients – see chapters 22 and 40) consider whether there are any issues relating to victims which impact on whether leave should be granted and the conditions to which it should be subject.

8 Considering Leave

8.1 The patient must be fully involved in the decision to grant leave. Leave must be well planned and involve detailed consultation with relevant community agencies, and appropriate friends/relatives, particularly if the patient will be residing with them. If the patient does not agree to the consultation with appropriate others, the granting of leave should be reconsidered.

8.2 Once agreed, details of the patient's leave, including any conditions must be recorded on S1 and on the S17 leave form by the RC. The patient must be asked to sign the Leave Form following an explanation of the details relating to the leave and any conditions which are attached to the leave. If a patient refuses to sign the form, consideration must be given to the appropriateness of granting the leave. A patient's refusal to sign the form must be recorded on the Leave Form.

8.3 Copies of the Leave Form must be given to the patient and relevant parties, if the patient does not object.

8.4 If the patient is unable to sign the form, an explanation must be written on the form.

8.5 If the patient is to be accompanied by a family member or friend they must be provided with clear instructions as to what they should do if the patient goes missing or breaches any of the conditions attached to the leave.

8.6 Leave must not be granted for periods of more than 1 month at a time. This is to ensure that the appropriateness of the patient remaining detained is considered regularly and the continuing with S17 leave is still appropriate.

8.7 Prior to granting any extended leave, aftercare arrangements must be in place and the care co-ordinator informed. It is good practice to ensure that a S117 meeting is convened in advance of extended leave.

8.8 Prior to the patient going on extended S17 leave, a new risk assessment form must be completed. For short periods of leave, the patient's risk must always be considered and documented on S1. If there are any concerns regarding risk or suitability of leave, it should be withheld pending advice from the RC. Patients must be made aware of the need to inform their allocated nurse before their taking each and every instance of leave.

8.9 Before any leave commences, patients must be made aware of any pending tribunal or hospital manager's hearings dates, any outstanding Second Opinion Appointed Doctors requests and any other appointments for which the patient may be required to return to hospital. All contact details for the patient whilst they are on leave should be obtained and updated on the Electronic Records System.

9. Domestic Violence, Crime and Victims Act 2004

9.1 Under chapter 2 of Part 3 of the Domestic Violence, Crime and Victims Act 2004 (The 2004 Act) provides specific rights for victims of offenders who are made subject to the 1983 Act. These apply to patients who have committed one of the specified sexual or violent offences and who are then detained in hospital under:

- A hospital order (section 37);
- A hospital and limitation direction (if the associated prison sentence is for 12 months of more) (section 45A); or
- A transfer direction (if the associated prison sentence is for 12 months or more) (section 47).

9.2 The provisions continue to apply to such patients if they are:

- Conditionally discharged; or
- Discharged onto supervised community treatment (SCT).

9.3 This includes patients who are given a hospital order after being found not guilty of a relevant offence by reason of insanity or unfit to stand trial under the Criminal Procedure (Insanity) Act 1964.

9.4 Hospital managers must also consider using their discretion to give victims

additional information (e.g. about patients' leave of absence, absconding, or transfer to another hospital). For example, if there is a possibility that victims may come into contact with patients who are on leave, it may be appropriate for hospital managers to exercise their discretion to disclose that a patient has been allowed leave (without giving specific details about the timing or purpose of the leave), so that the victim knows that the patient has not absconded.

9.5 For restricted patients this information is provided by the Ministry of Justice. For other patients the Responsible Clinician acting on behalf of the Hospital Managers will be responsible for making a decision as to whether information is to be provided or not. The Mental Health Act Manager/Deputy can provide additional advice and support regarding this matter.

9.6 Similarly, hospital managers might also decide to exercise their discretion, in some cases, to tell victims if patients have gone absent without leave to reassure victims that efforts are being made to find and return the patient. The decision regarding this matter will take place between the RC and the Victim Liaison Officer (VLO) if there is one. The MHA office will be able to advise if the victim has requested information.

10. Extended S17 Leave or Community Treatment Order

10.1 The Code of Practice 27.11 states, "When considering whether to grant leave of absence for more than seven consecutive days, or extending leave so that the total period is more than seven consecutive days, responsible clinicians should also consider whether the patient should go onto a community treatment order (CTO) instead and, if required, consult any local agencies concerned with public protection." This is only applicable to those patients who would be eligible for a SCT.

10.2 The requirement to consider SCT does not mean that the RC cannot use longer-term leave if that is the more suitable option, but the RC will need to be able to show that both options have been duly considered. The decisions, and the reasons for it, should be recorded on S1.

10.3 One use of leave for more than seven days may be to assess a patient's suitability for discharge from detention. Guidance on factors to be considered when deciding between leave of absence and SCT is given in chapter 31 of the Code.

10.4 Hospital Managers cannot overrule the RC's decision to grant leave. However, the fact that the RC grants leave subject to certain conditions, e.g. residence at a hostel, does not oblige the hospital managers or anyone else to arrange or fund the particular placement or services the clinician has in mind. RCs should not grant leave on such a basis without first taking steps to establish that the necessary services or accommodation (or both) are available.

11 Restricted Patients

11.1 Any proposal to grant leave to a restricted patient has to be approved by the Secretary of State for Justice.

11.2 Where the courts or the Secretary of State have decided that restricted patients are to be detained in a particular unit of a hospital, those patients require leave of absence to go to any other part of that hospital as well as outside the hospital.

11.3 Restricted patients are not eligible for SCT. The Secretary of State would normally consider any request for S17 leave for a restricted patient to be in the community for more than a few consecutive nights as an application for conditional discharge.

11.4 Subject to the agreement of the Secretary of State for Justice the RC may decide to authorise short-term local leave for a restricted patient, which may be managed by staff. For example, patients may be given leave for a shopping trip of two hours every week to a specific destination, with the decision on which particular two hours to be left to the discretion of the responsible nursing staff.

11.5 The parameters within which this discretion may be exercised must be clearly set out by the RC, e.g. the particular places to be visited, any restrictions on the time of day the leave can take place, and any circumstances in which the leave should not go ahead.
http://www.justice.gov.uk/downloads/offenders/mentally-disordered-offenders/mhcs-guidance-s17-leave.pdf

12 Extended Leave

12.1 Longer-term leave i.e. 7 days or more should be planned properly and where possible, well in advance. Patients should be fully involved in the decision and RCs satisfied that patients are manageable outside the hospital. Subject to the normal considerations of patient confidentiality, carers and other relevant people should be consulted before leave is granted (especially where the patient is to reside with them). Relevant community services should also be consulted.

12.2 If patients do not consent to carers or other people who would normally be involved in their care being consulted about their leave, RCs should reconsider whether or not it is safe and appropriate to grant leave.

13 Recording Leave

13.1 On every occasion the circumstances under which the leave is taken (e.g. whether escorted and, if so, by whom) must be recorded on S1. Clinical staff must risk assess and record the risk a patient poses to him or herself or to others, especially any children with whom there may be contact.

13.2 Leave of absence should be seen as an integral part of the patient's treatment and management. The outcome of leave – whether or not it went well, particular problems encountered, concerns raised or benefits achieved – should also be recorded in the patients' notes on SystmOne to inform future decision-making. Where community teams are involved in supporting the patient during the leave they should also be informed of any matters relating to the leave and its outcome. Patients should be encouraged to contribute their own view as to how the leave went following their return from leave. Particular note should be made of concerns raised by any escorting staff, relatives, friends or the patient in the patient's record.

13.3 Only overnight leave is to be recorded on the MHA screen on S1. Leave which does not take place overnight still needs to be recorded on the S17 Leave Form and in the daily notes.

13.4 A copy of the signed S17 Leave Form will be scanned to S1. An up-to-date description of the patient should be available in their notes, in case they fail to return from leave.

13.5 Section 17 leave forms which are no longer valid should be marked through so that errors are not made regarding the validity of the form.

14 Care and Treatment Whilst on Leave

14.1 RC's responsibilities for their patients remain the same while the patient is on leave.

14.2 A patient on S17 remains liable to be detained, and the rules in Part 4 of the Act about their medical treatment continue to apply (see chapter 24 of the Code for further details).

14.3 If a patient is on extended leave and a consent to treatment form is required the ward will liaise with the community team involved in the patient's care.

14.4 Whilst the patient is on leave their compliance with taking medication must be carefully monitored and recorded. The RC must be informed immediately if the patient becomes non-compliant with medication and their own risk, or risk to others increases. If it becomes necessary to administer treatment in the absence of the patient's consent under Part IV, consideration must be given to recalling the patient to hospital, (though the refusal of treatment would not on its own be sufficient grounds for recall).

14.5 The duty on local authorities and clinical commissioning groups (or, in certain circumstances, NHS Commissioning Board (NHS England)) to provide after-care under section 117 of the Act for certain patients who have been discharged from detention also applies to those patients while they are on leave of absence (see chapter 33 the Code).

15 Escorted Leave

15.1 The RC may direct that their patient remains in the custody of an employee of the PCH or a professional from another organisation while on leave, either in their own interests or for the protection of others. The person escorting the patient must be clear of the risk the patient presents and the likelihood of them absconding. The escort of the patient must be given a copy of the S17 Leave Form, informed of any conditions of the leave, the reasons for those conditions and telephone numbers of the appropriate contacts, should the leave be problematic or the conditions of the leave be unclear. Any specific information in relation to the escort such as gender, number of escorts, whether qualified or unqualified must be provided by the RC on the S17 Leave Form in the conditions space.

15.2 It is essential that discussion between the RC and ward staff takes place before the granting of escorted leave so as not to unnecessarily disappoint the patient. The RC must explain to the patient that escorted leave may be subject to the availability of staff. If escorted leave is not able to take place due to unforeseen circumstances or staff shortages an incident form and an unmet need form must be completed (if appropriate) and the normal procedure for incident reporting followed.

15.3 Patient's are accompanied by friends or relatives, and escorted by professionals who are employed by the Plymouth Community Healthcare or providing a professional duty on behalf of another organisation. The difference is one of responsibility. Whilst a friend or relative may be asked to accompany a patient they will not be legally responsible for their care or the safe return of the individual, (unless the individual is incapacitated in which case the principles of the Mental Capacity Act apply). It would not be normal for the relative or friend to be under the age of 18. An escort will be legally responsible for the care and safe return of the individual as they will be considered to be acting on behalf of the hospital manager's whilst performing their escorting duties.

15.4 Escorted leave to Northern Ireland is permitted under the Act – patients may be held in lawful custody by a constable or a person authorised in writing by the managers of the hospital. In Scotland, the Isle of Man or any of the Channel Islands escorted leave can only be granted if the local legislation allows such patients to be kept in custody while in that jurisdiction. If this is contemplated for a restricted patient, seek advice from the Mental Health Casework Section of the Ministry of Justice. Further guidance regarding escorted leave to these areas can be obtained via the MHA office.

16 Recall From Leave

16.1 Section 17(4) permits the RC to revoke the patient's leave at any time if they consider it necessary, in the interests of the patient's health or safety or for the protection of other people. The RC must be satisfied that these criteria are met and should consider what effect being recalled may have on the patient. A refusal to take medication would not on its own be a reason for revocation, although it may need to be considered. The RC would have to be sure that non-compliance with medication would have an ill effect on the

health and safety of the patient or the safety of others. Any person involved in the patient's community care and any appropriate friends or relatives (particularly if the patient is residing with them during the leave) should have easy access to the patient's RC, if they feel consideration should be given to the return of the patient to hospital. Any decision to retake a patient must be taken by the multi-disciplinary care team, led by the RC.

16.2 The RC must inform the patient in writing of their intention to withdraw authorised leave (See Appendix E). It is for this purpose that the hospital must be very clear as to where the patient will be residing whilst on leave. The full reasons for revoking the leave are to be explained in the notice to the patient and a copy of the form or letter scanned to S1. The RC must consider the likely reaction of the patient, the most appropriate person to inform the patient and what resources are required to carry out the transportation of the patient back to hospital. The mode of transport will generally be dependent on the amount of resistance of the person. In most cases an ambulance will be appropriate, although there may be occasions when police involvement is necessary. The police should only be involved if it is necessary because there is likely to be a risk of violence, a breach of the peace or the patient refuses to return and a warrant under s135 is required.

16.3 A restricted patient's leave may be revoked either by the RC or by the Secretary of State for Justice. If a problem were to arise during a restricted patient's leave of absence the responsible clinician should immediately suspend the use of that leave and notify the Ministry of Justice who would then consider whether to revoke or rescind the leave or let the permission stand.

16.4 The RC of a recalled CTO patient may allow him/her to leave the hospital at any time within the 72-hour period; the reasons for this decision must be recorded in the patient's notes. Whilst the Act does not specifically permit the RC to grant a recalled SCT patient Section 17 leave, the RC may, in exceptional circumstances, permit the patient to be away from the hospital during the recall for limited periods of time. The reasons for this must be documented in the patients notes, with any absence from hospital being risk assessed prior to starting. (See Appendix H).

17 Patients Absent Without Leave (AWOL)

17.1 Any detained patient who leaves the hospital from where they are detained without leave, or who fails to return from leave by the agreed time, is AWOL. A patient will also be classed as AWOL if they are absent from the place where any conditions of leave require them to be. Any occurrences which require the AWOL policy to be implemented must be recorded on the Electronic Records System (Ward and MHA screen) and an incident form completed.

17.2 Care plans should contain information such as useful contact numbers, places where the person may go, persons the absconder may contact, details relating to previous AWOL episodes i.e. always returns within 2 hours, found

in pub etc. A time-scale by which the police should be informed should also be recorded. The care plan must also contain details of any person who may be at risk from the patient whilst AWOL.

17.3 The care plan must contain details as to whether the care co-ordinator should be informed of the person's AWOL and any input the care co-ordinator or community team would be required to give or may be able to provide.

17.4 The Absent Without Leave (AWOL) and Missing Inpatients policy provides further guidance regarding the AWOL procedure and also what to do in the event that an informal patient goes missing.

18 Section 135(2) – Warrant

18.1 If the patient refuses to return to the detaining hospital, he/she becomes absent without leave and may be taken into custody and returned to hospital by any Approved Mental Health Professional (AMHP), by any member of the hospital staff, any police officer, or anyone authorised in writing by the hospital managers.

18.2 The community team and the inpatient team must decide who is most suitable to apply for the warrant. An individual must be nominated to co-ordinate the process of obtaining and executing the warrant. The person applying for the warrant must know the patient well enough to answer any questions the magistrate may have relating to the reasons for the recall.

18.3 A warrant can be obtained by contacting Plymouth Magistrates Court on Tel. 01752 206200 (office hours) and arranging for a convenient time to collect the warrant. When attending the Court the applicant will need to advise the receptionist of their name and the time agreed to collect the warrant. The receptionist will take Appendix F and G from the applicant and the fee of £20. When the Magistrate is available the applicant will be asked to provide their name, profession and why the warrant is required. If satisfied that the warrant is necessary the Magistrate will issue a warrant.

18.4 The person collecting the warrant will need to take the following documentation:

- Information in support of application for warrant to enter premises and remove patient (See Appendix F).
- A section 135(2) Warrant (See Appendix G).
- Good quality copy of section papers (if possible) (MHA Office).
- Good quality copy of S17 Leave Form (Ward).
- Good quality copy of RC's letter, recalling the patient, (the original must be given to the patient).
- Staff identification.

18.5 The warrant is valid for 28 days, but must be executed as a matter of urgency. A copy of the warrant must be left at the address at which it is

served, a copy is to be retained by the police and a copy must be placed in the patient's records.

18.6 A warrant application can be obtained from the MHA office or the AMHP duty team. (See Appendix H).

19 Duration of Leave/ Renewal of Authority to Detain

19.1 The leave may be extended in the absence of the patient. If the patient is residing with family or friends they must also be informed of the extension. The patient must be reminded of any previous conditions pertaining to the original leave. The RC should fully consider whether the patient continues to meet the criteria for detention throughout this period. This type of leave must be reviewed monthly and recorded in the medical notes. A new leave form must be completed on each occasion.

19.2 A period of leave cannot last longer than the duration of the section (in cases of S3 and S37, this applies to the current period of detention).

19.3 It is possible to renew a patient's detention while they are on leave if the criteria in Section 20 of the MHA'83 are met (see chapter 32 of the Code). But leave should not be used as an alternative to discharging the patient either completely or onto SCT where that is appropriate.

20 S117 After-care

20.1 The duty on health and social services authorities to provide after-care under section 117 of the Act applies to patients whilst they are on leave of absence (see chapter 33 of the Code).

21 Monitoring Compliance and Effectiveness

21.1 The MHA Office will report to the Mental Health Act Governance Group (MHAGG) any areas of concern regarding compliance of this policy. The MHAGG will agree any audits applicable to this policy.

21.2 Due to the fact that S17 leave is an important part of a patient's care plan it has been agreed by the MHAGG that all wards/units are to complete an incident form when patients are unable to take leave due to insufficient staffing levels. The incident forms will be monitored by ward/unit manager and matrons.

22 References

- Mental Health Act 1983 Code of Practice (published 2008).
- Mental Health Act 1983 Reference Guide (published 2008).
- Impact Assessment.
- Supervised Community Treatment Policy.
- Care Programme Approach Policy.

- S117 After-care Policy.
- Absent Without Leave and Missing Inpatient Policy.

23 Training

23.1 The training regarding the use of S17 leave and the processes to be followed is provided in the MHA Training held within the organisation and also directly to the qualified ward staff as part of the Receiving and Scrutinising Section Paper training.

All policies are required to be electronically signed by the Lead Director. Proof of the electronic signature is stored in the policies database.

The Lead Director approves this document and any attached appendices. For operational policies this will be the Locality Manager.

The Executive signature is subject to the understanding that the policy owner has followed the organisation process for policy Ratification.

Signed: Director of Operations

Date: 17th September 2015

Appendix A

Practice Note: Concerning the Mental Health Act 1983 Section 17 Leave of Absence

This note applies to leave of absence granted for any excursion outside the hospital grounds for any period of time.

Leave **cannot** be granted to patients detained under s35, s36 s38. Patients detained under s37/41, s47/49, s48/49 can only be granted leave with the appropriate written permission from the Home Office.

Key Points

- Leave of absence for detained patients can **only** be authorised by the patients RC, their authority **cannot** be delegated. In the event that the RC is on leave or sick the covering RC may grant leave if agreed as part of the patient's care plan.

- The granting of leave should not be used as an alternative to discharging the patient.

- The patient should be fully involved in the decision to grant leave and made aware of any conditions attached to the leave.

- Leave of absence should be well planned and involve detailed consultation with any appropriate community services (including the GP) that could contribute to its successful implementation. Relatives/friends (especially where the patient is to reside with them) should also be involved in the consultation. When substantial changes occur in the period of leave or conditions of leave it is good practice to consult with the appropriate professionals, relatives and carers.

- A full risk assessment must be carried out and a new risk assessment form completed prior to extended leave commencing. For short periods of leave, i.e. leave taken daily, the risk a patient presents to himself and others must also be considered and documented in the patient's records.

- When considering whether to grant leave of absence for more than seven consecutive days, or extending leave so that the total period is more than seven consecutive days, RCs must first consider whether the patient should go onto Supervised Community Treatment instead.

- If the patient is to go on extended S17 leave this must be clearly stated in the medical notes. Prior to granting any extended leave, section 117 Aftercare arrangements must be in place for those patients detained under a treatment section.

- Escorted leave refers to an authorised member of hospital staff accompanying the patient. It must be agreed at what grade (i.e. qualified/unqualified) and the ratio of escorts required. Friends and relatives **cannot** act as escorts.

- Unescorted leave requires the checking of conditions - If patients need to be accompanied the names of those accompanying the patient must be written on the Leave Form.

- A patient granted leave under S17 remains 'liable to be detained' and must be provided with a bed if leave needs to be revoked, or on their return from leave.

- A patient granted leave of absence is still liable to the Consent to Treatment provisions of the MHA'83. This means the normal three-month treatment period applies. Patients on extended leave with Forms T2 and T3 (Consent to Treatment forms) must have their prescribed medication carefully monitored to ensure it complies with the medication stated on the authorised Treatment Form. If a patient's consent is due whilst on leave, then the RC should obtain consent or arrange a Second Opinion Appointed Doctor (SOAD) in the usual way.

- Leave must be reviewed no less than monthly, although good practice would be to review weekly at ward rounds.

- N.B In the event of an urgent situation leave of absence may be granted over the telephone by the RC. **This will need to be carefully recorded by two nursing staff** and the appropriate forms completed as soon as practical. In the event of a patient requiring medical attention, S17(3) applies i.e. the patient may be taken to another hospital to receive the necessary treatment without the need to wait for the completion of the S17 Leave Form. This can be completed at the next practical opportunity.

This note is only a synopsis and should be used in conjunction with the Section 17 Leave Policy, the Code of Practice (revised 2015) chapter 27 and 25.1-25.28 of the Reference Guide, Mental Health Act 1983, 2015.

Further detailed questions should be addressed to the Mental Health Act Manager.

Appendix B

Guidelines for the Completion of Section 17 Leave Forms

1 Only the RC can authorise S17 leave, the RC cannot delegate this authority.
2 In the event that the RC is on annual leave or sick, the person covering as the patient's RC may grant leave i.e. Locum Consultant or covering RC.
3 All personal details of the patient must be completed.
4 The date/time from and to must be completed. Indefinite leave i.e. leave without a review date is **not** acceptable.
5 If the patient is to be escorted then the box must be ticked. (Only members of staff employed by the hospital may escort patients).
6 Any specified occasions must be recorded on the reverse of the form.
7 If conditions apply they must be clearly stated. If a patient is to be accompanied the accompanying adult should be made aware of the reporting procedure should the patient breach any conditions or go AWOL.
8 The RC must complete the form in advance and sign and date all Leave Forms.
9 When S17(3) applies (Leave of absence to another hospital for medical treatment), the RC must complete the form at the next practical opportunity.
10 The RC must complete the S17 Leave Form at the next practical opportunity, when leave has been granted in urgent situations and recorded by two nursing staff.
11 The patient must sign the completed Leave Form, after any conditions are fully explained and understood.
12 If the patient refuses to sign a S17 Leave Form a note must be made in the medical files and reconsideration given to the appropriateness of the leave. If a patient is unable to sign the Leave Form this should be recorded.
13 All persons involved in the patient's care whilst in the community must be made aware of the leave and any conditions. It is important that if the patient is to be accompanied by a relative or friend their name is recorded after consultation.
14 When leave is taken the date and time must be completed on the S17 Leave Form. The patient's records must also be completed when the patient returns from leave. Details should include how the leave went, any problems etc.
15 Assessment of risk and the outcome must be recorded, prior to leave commencing.
16 S17 leave must not be granted for periods longer than a month. Best practice would be to review those patients who are granted extended leave, weekly at ward rounds.
17 Consider whether the requirements of the Domestic Violence and Victims Act applicable, i.e. does the victim need to be informed of the leave?

Appendix C

NHS No:
Hosp No:

Mental Health Act (1983) Record of Granting Section 17 Leave of Absence

_____ is currently detained in _____ under Section _____

All leave is at the discretion of the Registered Nurse after assessment of risk and suitability. Should the Registered Nurse decide that leave is not appropriate, they may withhold it, even though the RC has authorised it.

Leave of absence is authorised as follows:

Day leave

	From (*time/date)*	To *(time/date)*	For up to (hours)	On up to (occasions)	Staff Escorted Yes or No	Accompanied by Family/Friend
A						
B						
C						

Overnight or Extended Leave

	From (*time/date)*	To *(time/date)*	Duration	On up to (occasions)	Destination of o/n leave	Conditions
D						
E						

Review date and time (if different from end date above): _____

Has a community treatment order been considered if the leave is for more than 7 days? Yes/No

When considering whether to grant leave of absence for more than seven consecutive days, or extending leave so that the total period is more than seven consecutive days, responsible clinicians should also consider whether the patient should go onto a community treatment order (CTO) instead and, if required, consult any local agencies concerned with public protection. CoP 27.11

Specified occasions to be noted overleaf

Conditions including details of Escorts or appropriate persons to accompany patient.

1

2

3

Address and contact no. of any overnight leave:

	I understand that failure to comply with the above conditions may result in my being recalled to hospital.
RC: _____ **Signature:** _____ **Date:** _____	**Client:** _____ **Signature:** _____ **Date:** _____

The following people were notified of these arrangements on ……(where applicable):

Relative (Name):	**GP (Name):**
Care Co-ordinator (Name):	**Other (Name):**

In case of difficulty please contact:

It is the responsibility of the ward to ensure that a photocopy of this document is given to the patient and that each leave episode is recorded below

Section 17 leave of absence: specified occasions/additional conditions/information

Date of Leave	Time Left	Initial of Nurse Signing out	Signature of patient	Activity/Conditions/ Duration	Escorted/ Unescorted	Date and Time Returned	Initial of Nurse Signing in	Comments / Description

Appendix D

Arrangements for moving patients detained under the Mental Health Act, between Plymouth Hospitals NHS Trust and Plymouth Community Healthcare

Patients detained under the Mental Health Act requiring medical assessment or treatment at a local general hospital will be moved to Derriford Hospital under S17 Leave of Absence.

1) The following paperwork is required for **Detained patients** who will be admitted to Derriford Hospital for assessment or treatment:
   - Completed S17 Leave Form – out of hours the Nurse in Charge is to obtain verbal consent from Duty Consultant Psychiatrist and annotated on form as per this policy.
   - Copy of MHA Section papers including appropriate treatment form i.e. T2, T3 or Section 62.
   - Risk assessment printout from the Electronic Records System.
2) Incomplete paperwork must not hold up medical treatment. Missing paperwork will be chased by the Derriford corporate business manager on the next working day.
3) In the event of an emergency (i.e. the patient requires urgent medical treatment) treatment must not be held up whilst waiting for the S17 leave to be authorised. S17 leave may be granted over the telephone and recorded by two RMN nurses. If the Responsible Clinician (RC) is unavailable the patient may be taken to Derriford Hospital for urgent treatment, and leave obtained retrospectively – See Guidance Note on S17 Leave of Absence.
4) Transfer of authority (via Form H4) is not applicable for the movement of patients detained by Plymouth Community Healthcare to Plymouth NHS Hospitals.
5) The RC at the originating hospital will retain responsibility for the patient whilst they are in Derriford Hospital on S17 leave, and advise/liaise with the medical team involved. The RC will also maintain their clinical input into the patient's care and will continue to review the patient in Derriford Hospital as part of their weekly ward round.
6) Where the patient requires leave of absence to another hospital for planned treatment (i.e. outpatient appointment); it should be granted in advanced by the RC, and documented on the S17 leave form.
7) For patients who attend for emergency treatment, who are already on S17 leave in the community, their RC must be informed as a matter of urgency. Depending on the nature of the emergency treatment it may be appropriate for the S17 leave to be reviewed, possibly leading to recall, or a change in conditions. This process must be documented in the notes, and any changes to the leave must be confirmed on a fresh S17 leave form completed by the RC.
8) These arrangements are applicable to patients attending Derriford for medical assessment or treatment from:
   - Plymouth Community Healthcare
   - Cornwall Partnership NHS Trust
   - Devon Partnership NHS Trust

NHS No:
Hosp No:

Appendix E

Mental Health Act 1983 s. 17(1) – Leave of Absence Recall Form

For further guidance refer to: The Code of Practice (revised 2015) 27.32-36
Reference Guide (revised 2015) 25.16-25.20

To: .....

Hospital Number:..... NHS Number: ……

at present "liable to be detained" on ..... Ward under Section ..... MHA 1983

As your Responsible Clinician I write to confirm that you are to be recalled to hospital and that your Section 17 Leave of Absence is being revoked for the following reasons:

……

……

……

……

……

……

……

……

……

……

Responsible Clinician: _____

Signed: _____

Date: _____

Cc Ward
Mental Health Act Office

Appendix F

Mental Health Act 1983, s.135(2)

Information in support of application for warrant to enter premises and remove patient

Magistrates' Court *(Code)*

Name and address of applicant

The information of

of

Delete any words in square brackets which do not apply

a constable] [a person authorised by or under [the Mental Health Act 1983] [article 8 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (Consequential Provisions) Order 2005] to take a patient to any place, or to take into custody or retake a patient who is liable under the said [Act] [article 8] to be taken or retaken] who states that there is reasonable cause to believe that a patient, namely

Name the patient

Specify premises within the jurisdiction of the magistrate

is to be found on premises at

and that [admission to the premises has been refused] [refusal of admission to the premises is apprehended]
and who now applies for a warrant under the provisions of section 135(2) of the Mental Health Act 1983, authorising entry to the said premises if need be by force and to remove the said patient

Here state relevant information in support of the application, including basis of authority to take or retake the patient

Signature of informant:

Date

Taken before me

[District Judge] [Justice of the Peace]

Appendix G

Mental Health Act 1983, s.135(2)
Warrant to search for and remove patient

Magistrates' Court *(Code*

Specify name of applicant

On this day information was laid before me, the undersigned, by:

Delete any words in square brackets which do not apply

[a constable] [a person authorised by or under [the Mental Health Act 1983] [article 8 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (Consequential Provisions) Order 2005] to take a patient to any place, or to take into custody or retake a patient who is liable under the said [Act] [article 8] to be taken or retaken] and it appears that there is reasonable cause to suspect that a patient, namely

Name the patient

Insert address of premises

is to be found on premises at

Note:

In executing the warrant, the constable may be accompanied by (a) a registered medical practitioner; (b) any person authorised by or under the Mental Health Act 1983 or under article 8 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (Consequential Provisions) Order 2005 to take or retake the patient.

Authority is hereby given, under the provisions of section 135(2) of the Mental Health Act 1983, for any constable **to enter the said premises** on one occasion only, within one calendar month from the date of issue of this warrant, if need be by force and to remove the said patient.

Dated The

[District Judge] [Justice of the Peace]

A copy of this warrant should be left with the occupier of the premises or, in his/her absence, a person who appears to be in charge of the premises, or if no such person is present, in a prominent place on the premises

---

Endorsement - to be made by constable executing the warrant.

1. [The following person sought was found:

]

[No person was found]
[No articles were seized]

2.This warrant was executed on at am/pm

Original warrant

If executed, or if not executed within one calendar month of issue, this Warrant is to be returned to the designated officer for the local justice area concerned.

3. The name(s) of the officer(s) executing this warrant is/are:

4. A copy of this warrant [and a notice of powers and rights] [was] [were] [handed to the occupier] [left on the premises (specify where)]

Date Signature of constable

Appendix H

Recall From S17 Leave and Obtaining S135(2) Warrant

NOTE: A refusal to take medication would not on its own be a reason for revocation, although it may need to be considered.

Only the RC can revoke the patient's leave if he/she **considers** it necessary, in the interests of the patient's health or safety or for the protection of other people. The RC must consider what effect being recalled to hospital may have on the patient.
NOTE: The On-Call Consultant (If an Approved Clinician) is the RC for all patients detained to PCH out of Hours.

NOTE: A Fax or photocopy copy is acceptable

The RC must discuss with the Community Care Team, and care co-ordinator:

- the need for the patient to be recalled,
- the urgency of the recall,
- the likelihood of the patient's returning to hospital of their own free will
- any known risk associated with the patient.

The RC must confirm with the Unit manager/Bed co-ordinator the availability of a bed before recalling the patient to hospital. The patient can only be recalled to the hospital they went on S17 leave from.

The **RC must arrange for a notice in writing** to the patient revoking the leave or on the person who is for the time being in charge of the patient. The full reasons for revoking the leave are to be fully explained and a copy of the form or letter placed in the case notes.

NOTE: Patients cannot be recalled after they have been discharged or after the authority for their detention has expired.

The RC must consider the likely reaction of the patient, the most appropriate person to inform the patient and what resources are required to carry out the transportation of the patient back to hospital. The mode of transport will generally be dependent on the amount of resistance of the person.

How To Obtain A S135(2) Warrant If The Person Refuses To Return To Hospital

NOTE: Whenever the police are asked for help in returning a patient, they must be informed of the time limit for taking them into custody. Where the police have been informed about a missing patient, they should be told immediately if the patient is found or returns.

If the patient refuses to return to the detaining hospital, he/she becomes absent without leave and may be taken into custody and returned to hospital by any

- Approved Mental Health Professional (AMHP),
- by any member of the hospital staff,
- any police officer,
- or anyone authorised in writing by the hospital managers.

↓

If a warrant is required the community team and the ward must decide who is most suitable to apply for the warrant. An individual must be nominated to co-ordinate the process of obtaining and executing the warrant.

The person applying for the warrant must know the patient well enough to answer any questions the magistrate may have relating to the reasons for the recall.

↓

A warrant can be obtained by contacting Plymouth Magistrates Court on Tel. 206200 (office hours) and arranging for a convenient time to collect the warrant.
When attending the Court the applicant will need to advise the receptionist of their name and the time agreed to collect the warrant.

The applicant will need to take

- Appendix F and G from the AWOL policy.
- Fee of £20.00.
- Good quality copy of section papers (if possible) (MHA Office).
- Good quality copy of S17 Leave Form (Ward).
- Good quality copy of RC's letter, recalling the patient, (the original must be given to the patient).
- Staff identification.

When the Magistrate is available the applicant will be asked to provide their name, profession and why the warrant is required. If satisfied that the warrant is necessary the Magistrate will issue a warrant.

The warrant is valid for 28 days, but must be executed as a matter of urgency. A copy of the warrant must be left at the address at which it is served, a copy is to be retained by the police and a copy must be placed in the patient's records.

↓

The police should be asked to assist in returning a patient to hospital only if necessary. If the patient's location is known, the role of the police should, wherever possible, be only to assist a suitably qualified and experienced mental health professional in returning the patient to hospital.