NHS
Hertfordshire
Partnership University
NHS Foundation Trust

HPFT

Section 17 Leave of Absence Policy

MENTAL HEALTH ACT 1983 AS AMENDED BY MENTAL HEALTH ACT 2007

HPFT Policy

Version	7.4
Executive Lead	Executive Director Quality & Safety
Lead Author	MHA Quality Manager
Approved Date	N/A
Approved By	N/A
Ratified Date	August 2020
Ratified By	Mental Health Act Quality and Policy Group
Issue Date	04/06/2021
Expiry Date	23/12/2023
Target Audience	❖ Staff working in all in-patient units ❖ Any HPFT service which may deal with patients subject to the MHA

Document on a Page

Title of document	MHA Section 17 Leave of Absence		
Document Type	Policy		
Ratifying Committee	Mental Health Act Quality and Policy Group		
Version	**Issue Date**	**Review Date**	**Lead Author**
7.4	04/06/2021	23/12/2023	MHA Quality Manager
Staff need to know about this policy because (complete in 50 words)	This policy 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.		
Staff are encouraged to read the whole policy but I (the Author) have chosen three key messages from the document to share:	Only the responsible clinician is able to grant Section17 leave. There must be a risk assessment before any period of leave is taken. Patients must be aware of the conditions attached to their leave in order to be able to comply with these.		
Summary of significant changes from previous version are:	Clarification of who can allow leave authorised by RC. i.e Nurse in charge or equivalent for units that have a suitably qualified professional in charge of the unit. Appendix 5-Addition of Section 17 leave revocation letter to be completed by RC if applicable Appendix 6 - Guidance in relation to Patient Leave including S17 Leave (MHA) during COVID-19 outbreak v5 The National Guidance: Legal guidance for services supporting people of all ages during the coronavirus pandemic was updated on the 25th January 2021, and this has been added to the document to replace the date of the previous version.		

Contents Page

PART 1 – Preliminary Issues:

1. Summary

This document relates to patients detained under the Mental Health Act (MHA). It explains what section 17 leave is, which detention sections under the MHA it applies to, the purpose of leave and who can authorise section 17 leave. Patients detained in hospital have the right to leave hospital lawfully only if they have leave of absence from their responsible clinician (RC) under section 17 of the Mental Health Act (MHA).

2. Objectives

The purpose of this document is to ensure that all Trust staff dealing with patients detained under the MHA are aware of what section 17 leave is and what is required from them in respect of the leave. By following the procedures specified within the policy it will ensure that all statutory requirements are adhered to as well as following the Guiding Principles as specified in the MHA Code of Practice, see Appendix 1.

3. Definitions

Absent without leave (AWOL) – A detained patient being absent, without permission, from the place they ought to be under the Act.

Leave of absence – Permission to be absent from hospital granted under section 17 of the MHA by a patient's responsible clinician.

Responsible clinician (RC) – The approved clinician in overall charge of the detained patient's case.

4. Duties and Responsibilities

4.1 Duties

The Trust is ensuring through this document that all staff are aware of their role in relation to those granted section 17 leave.

4.2 Duties within the Organisation

It is the responsibility of the organisation's operational management to ensure policy distribution, implementation and compliance throughout the organisation.

4.3 Individual Staff working with patients

It is the responsibility of individual staff working with detained patients to ensure that they are aware of all requirements in respect section 17 leave.

4.4 Lead Directors

The Chief Executive is ultimately responsible for ensuring that the Trust meets its responsibilities with regard to the delivery of services. The lead Director for this policy is the Executive Director, Quality & Safety.

4.5 Key Groups with a Policy Role

The Mental Health Act Quality and Policy Group meeting agree this policy and any changes that need to be added as legislation changes.

Part 2 – What needs to be done and who by

5. Detained Patients eligible for leave

Section 17 of the Mental Health Act 1983 allows patients who are liable to be detained under certain sections of the Act to be granted leave of absence. Section 17 applies to patients who are detained under sections 2, 3, 37 and 47 of the Act.

It also applies, with modifications, to those patients who are subject to a restriction order (Section 41 or Section 49), see paragraph 11.

Leave **cannot** be granted to patients subject to sections 5, CTO recall, remanded to hospital under Sections 35 or 36, detained in hospital as a place of safety, or subject to an interim hospital order under Section 38.

6. Power to Grant Leave

6.1 Only the responsible clinician can grant leave of absence to a patient detained under the Act. Responsible clinicians cannot delegate the decision to grant leave of absence to anyone else. In the absence of the usual responsible clinician (e.g. if they are on leave), permission for leave can be granted only by the Approved Clinician who is for the time being acting as the patient's responsible clinician.

6.2 If there is a change of responsible clinician section 17 leave must be reviewed and fresh authorisation given for leave of absence.

6.3 Responsible clinicians may grant leave for specific occasions or for specific or indefinite periods of time. They may make leave subject to any conditions that they consider necessary in the interests of the patient or the protection of other people.

6.4 Leave is an essential part of the treatment and rehabilitation programme for patients and it also forms a part of the overall treatment programme. The patient should be involved in the decision to grant leave and should be asked to consent to any consultation with others thought necessary such as carers.

6.5 Leave should be granted according to the patient's clinical situation at that moment in time and their general progress. A patient should not be given leave if he/she is likely to pose an unacceptable level of risk to the public or to him/herself. Leave of absence should be well planned as far in advance as possible.

6.6 When considering and planning leave of absence, responsible clinicians should:

- Consider the benefits and any risks to the patient's health and safety of granting or refusing leave.
- Consider the potential benefits of granting leave to facilitate the patient's recovery.
- Balance these benefits against any risks that the leave may pose in terms of 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 or 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. They must be made aware of 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, eg: the sex offender management unit (SOMU)

- Undertake a risk assessment and put in place any necessary safeguards,

- And in the case of mentally disordered offender patients subject to part 3 of the MHA, 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. Please see HPFT's **Joint Policy for Managing the Rights of Victims to Information and to make Representation** for further information.

6.7. MHA Managers cannot overrule a responsible clinician's decision to grant leave. However, the fact that a responsible clinician grants leave subject to certain conditions, e.g. Residence at a hostel, does not oblige the Trust or anyone else to arrange or fund the particular placement or services the clinician has in mind. Responsible clinicians should not grant leave on such a basis without first taking steps to establish that the necessary services or accommodation are available.

6.8. If a patient requires treatment as a medical emergency the patient's welfare must always take precedence over administrative procedures. If a patient is taken from the unit before it is possible to obtain written authority under S17 from the responsible clinician, the nurse in charge (or equivalent) of the ward where the patient is liable to be detained must inform the RC and obtain the appropriately completed form at the earliest opportunity. If circumstances allow, a record should be made in the patient's notes stating the reasons why the patient had to be taken from the unit before authority could be obtained from the responsible clinician.

6.9. A patient granted leave of absence continues to be "liable to be detained" and therefore remains subject to the Consent to Treatment provisions of the Mental Health Act, so if a patient is likely to be on leave when the period of their treatment without consent expires, arrangements must be made to ensure the necessary Certificate to Consent to Treatment (Form T2 or T4) or Certificate of Second Opinion (Form T3, T5 or T6) will be completed within the statutory time limits. The same would apply if the patient would need to have their detention under the Mental Health Act renewed.

6.10. Patients will lawfully be absent from leave if they are being transferred or taken to another place under the Act, or under another piece of legislation, this could include patients being transferred to another hospital under S19 of the Act, or patients who are required to attend court.

6.11. For guidance in relation to Patient Leave including S17 Leave (MHA) during COVID-19 outbreak see Appendix 6

7. Requirement to consider a Community Treatment Order

7.1. Leave should normally be of short duration and not normally more than seven days. 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.

7.2. This requirement does not apply to restricted patients, nor, in practice, to patients detained for assessment under section 2 of the Act, as they are not eligible to be placed on a CTO.

7.3. The option of using a CTO does not mean that the responsible clinician cannot use longer-term leave if that is the more suitable option, but the responsible clinician will need to be able to show that both options have been duly considered. Decisions should be explained to the patient and fully documented, including why the patient is not considered suitable for a CTO, Guardianship or discharge. The decision and reasons for this must be recorded on PARIS for monitoring purposes.

7.4. Leave for more than seven days may be used to assess a patient's suitability for discharge from detention. Guidance on factors to be considered when deciding between longer-term leave of absence, guardianship and a CTO is given in HPFT's Community Treatment Order policy.

8. Risk Assessment

8.1. Assessment of the risks in relation to the particular leave must be carried out prior to granting the leave that has been authorised by the RC. This should involve the patient, named nurse, carer and the community team where appropriate. Where leave is authorised and there are concerns that allowing the leave to go ahead would present a risk to the patient or someone else then the nurse in charge or equivalent should withhold the leave until such time as this can be discussed with the RC.

A RISK ASSESSMENT PRIOR TO EACH PERIOD OF LEAVE SHOULD BE UNDERTAKEN FOR ALL PATIENTS AS A MATTER OF GOOD PRACTICE NOT SOLELY THOSE DETAINED UNDER THE MENTAL HEALTH ACT.

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

9. Care and Treatment while on Leave

9.1. The responsible clinician responsibilities for the patient's care remains the same while he/she is on leave although they are exercised in a different way. The duty to provide aftercare under Section 117 includes patients who are on leave of absence.

9.2. A patient who is granted leave under Section 17 remains liable to be detained, and the rules in Part 4 of the Act (medical treatment for mental disorder) continue to apply. If it becomes necessary to administer treatment without the patient's consent, consideration should be given to whether it would be more appropriate to cancel the leave and recall the patient to hospital although this is not a legal requirement, see paragraph13.

10. Recording of Section 17 Leave of Absence

10.1. Responsible clinician authorisation of leave of absence should be recorded on the Section 17 Leave Form (please see appendices 2 & 3) and in the patient's clinical record, together with such matters as the permitted period of leave, any conditions which have been imposed upon it and the time by which the patient is required to return to the unit.

IF THE SECTION 17 LEAVE FORM HAS NOT BEEN SIGNED BY THE RC IT IS NOT VALID SO LEAVE CANNOT BE GIVEN TO THE PATIENT.

ALL S17 LEAVE FORMS THAT HAVE EXPIRED MUST BE CROSSED THROUGH AND SCANNED ONTO PARIS. THEY MUST BE REMOVED FROM PATIENTS' PAPERLIGHT FILE OR THE S17 LEAVE FOLDER TO ENSURE THAT LEAVE IS NOT GIVEN IN ERROR.

10.2. When granted, the limitations of leave and the conditions attached must be explained, fully to the patient by the responsible clinician or the nurse in charge (or equivalent), a copy of the leave form should be given to all patients granted leave and a copy should be kept in the patient's paperlight file or in the "S17 leave folder".

10.3. Patients and any appropriate relatives, carers, friends, professionals and other people in the community who need to know about the leave and conditions should be given a copy of the S17 leave authorisation form.

10.4. Leave of absence is 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 be recorded in the patients' notes to inform future decision-making. Patients should be encouraged to contribute by giving their own views of the leave for inclusion in their record.

10.5. Prior to the patient going on leave the staff must record a clear description of the patient's appearance, ethnic origin, height build, colour of hair, particular physical features or obvious disabilities and other distinguishing characteristics. A photograph should be included within the notes where possible. This will enable a full description to be circulated should the person not return at the specified time and is Absent Without Leave.

10.6. The conditions of leave should be reiterated to the patient before each period of leave.

10.7. The leave situation of each patient must be reviewed regularly by the team.

11. Restricted Patients (S37/41, S47/49)

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 will require the Secretary of State's permission to take leave of absence to go to any other part of that hospital as well as outside the hospital.

11.3. For routine medical appointments or treatment, the Secretary of State's permission will be required. It is accepted that there will be times of acute medical emergency such as heart attack, stroke or penetrative wounds or burns where the patient requires emergency treatment. There may also be acute situations which, while not life threatening still require urgent treatment, eg: a fracture. In these situations, the responsible clinician may use their discretion, having due regard to the emergency or urgency being presented and the management of any risks, to have the patient taken to hospital. The Secretary of State should be informed as soon as possible that the patient has been taken to hospital, what risk management arrangements are in place, be kept informed of developments and notified when the patient has been returned to the secure hospital.

11.4. Further information and guidance on S17 leave for restricted patients is available on Trustspace, if you click here, alternatively you can click here to access the Ministry of Justice website.

12. Absence Without Leave

12.1. A detained patient becomes absent without leave **either** by leaving the hospital without an authorised leave period **or** by failing to return at the end of an authorised period of absence (Section 17 Leave) **or** by absconding from a "custodian" (e.g. Escorted leave). Staff should refer to the HPFT Absent Without Leave (AWOL) Policy should this situation arise.

12.2. A detained patient can only lawfully leave the hospital when he/she is either:

- Discharged
- The authority to detain lapses
- Transferred to another hospital under Section 19
- Section 17 leave of absence is authorised

12.3 For the purposes of the Act, it is immaterial whether the patient is escorted by hospital staff, whether the excursion is part of a specified treatment plan, or even if it arises as a result of an emergency (see section 6.8), all leave **must** be authorised under Section 17.

13. Types of Leave

Section 17 leave must be authorised prior to a detained person leaving the perimeter of the grounds of the unit where they are detained. It is not a statutory requirement that Section 17 leave be granted for what is defined by the Trust as “Ground Leave".

Ground Leave – This can be in any designated areas of the grounds, to attend day care departments, clinics and any leisure or recreation facilities within the defined grounds of each unit. Please see Appendix 4 for further information in respect of defined grounds for HPFT units.

Where units are based on sites where there are different NHS Trusts, e.g. within the grounds of a General Hospital, Service Line Leads must ensure that agreement is reached with the other organisation about where the “Hospital Grounds” are. It has been agreed that the grounds of HPFT units will be defined by the perimeter of a fence around the unit garden and the grounds end outside the front door.

Short Term Leave – includes community leave and day trips.

Responsible clinicians may decide to authorise short-term local leave, which may be managed by other 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.

The parameters within which this discretion may be exercised should be clearly set out by the responsible clinician, eg: 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.

Responsible clinicians should regularly review any short-term leave they authorise on this basis and amend it as necessary.

Long Term Leave – includes overnight stays, weekend leave and long term trial leave.

Longer-term leave should be planned properly and, where possible, well in advance. Patients should be fully involved in the decision and responsible clinicians should be satisfied that patients are likely to be able to manage 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 be consulted.

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

As with short-term leave, responsible clinicians should specify any circumstances in which the leave should not go ahead – eg: if the patient’s health has considerably deteriorated since it was authorised.

Emergency Treatment Leave – solely in the event of the need for immediate emergency transfer to another hospital**.** A S17 leave form must be completed by the RC.

14. Escorted Leave

14.1 The responsible clinician may direct that a patient remains in custody while on leave, either in the patient's own interests or for the protection of other people. 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. While it may often be appropriate to authorise leave subject to the condition that a patient is accompanied by a friend, relative or carer (eg on a pre-arranged day out from the hospital), RCs should specify that the patient is to be in the legal custody of a friend, relative or carer only if it is appropriate for that person to be legally responsible for the patient, and if that person understands and accepts the consequent responsibility,(CoP 27.29). If the custodian is to be someone other than a member of staff, written authority must be provided to them from the MHA Managers (S.17(3)), however, this can place an unreasonable responsibility on the friend, relative or carer so it is therefore more appropriate in these circumstances that the term **"accompanied"** rather than "escorted" is used.

14.2 The number and choice of escorts should be specified. The choice of escorts must take into consideration the individuals risk assessment and current observation levels.

14.3 Mobile telephones must be available to the escorts if this is believed to be necessary.

14.4 Restrictions may be applied to any type of leave, e.g. time limits, specified places not to be visited, the patient only to be allowed leave in the care of specific relatives (following consultation with these relatives).

15. Suspension of Leave

15.1 Each unit/ward will have designated suitably qualified professionals that can allow leave authorised by the RC. In most units this will be the nurse in charge; however in units where there is no nurse in charge, this will be a suitably qualified professional who is the equivalent of the nurse in charge. These members of staff have a vital role in the effective implementation, recording and evaluation of leave granted to detained patients under Section 17 of the Act. They should assess a patient's clinical state **before each and every instance of leave**, even if it is not stated to be contingent upon their approval. They should pay particular attention to the risk, which the patient poses to him/herself, or to others especially any children with whom they may be in contact with. If they have significant concerns they should withhold leave pending advice from the responsible clinician. If this is necessary they should record the reasons clearly in the care records.

15.2 Any member of staff who has concerns about a patient having leave must consult with the nurse in charge (or equivalent) of the area, who may decide to suspend the leave.

15.3 The responsible clinician should be informed by the next working day when leave is suspended.

15.4 The suspension of leave may occur under the following circumstances

- A breach of any of the conditions for leave
- Deterioration of behaviour or mental state
- If knowledge is gained that would have meant that the leave would not have b been granted in the first place

15.5 Leave must be cancelled if the requirements of safe escorting (as specified on the Section 17 leave form) cannot be provided. If this occurs, this must be recorded in the person's care records and staffing issues should be addressed to the Manager of the unit and raised as an incident on datix.

16. Cancelling Leave and Recall to Hospital

16.1 A responsible clinician (or, in the case of restricted patients, the Secretary of State) may revoke their 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. responsible clinicians 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 would almost always be a reason to consider revocation.

16.2 In these circumstances the responsible clinician is obliged to provide written notification to the patient and/or to the person caring for them that the leave is being revoked. The Section 17 Revocation Letter (see appendix 5) should be completed and a copy given to the patient and also attached to the EPR. The reasons for this recall should be fully explained to the patient and a record of this explanation should be kept in the care records. As the patient would have to be written to, it is imperative for staff to know the address where the patient is staying. If it is immediately necessary to bring the patient back to hospital the written notice can be given to him/her at the time of bringing them back to the unit.

16.3 A refusal to co-operate with some aspects of treatment and in particular medication should not by itself require recall to hospital, unless such co-operation has been made a condition of leave.

16.4 A restricted patient's leave may be revoked either by the responsible clinician 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.

16.5 It is essential that carers (especially where the patient is residing with them while on leave) and professionals who support the patient while on leave should have easy access to the patient's responsible clinician if they feel consideration should be given to return of the patient before their leave is due to end.

17. Renewal of Authority to Detain

It is possible to renew a patient's detention while they are on leave if the criteria in Section 20 of the Act are met. Leave should not be used as an alternative to discharging the patient either completely or onto a Community Treatment Order.

18. Procedure

18.1. Leave of absence should be decided after careful planning and discussion with Clinical staff, the Care Co-ordinator, the patient and carer (if appropriate). Discussion with regard to leave should also be recorded in the patients care records.

18.2. Conditions must be entered on the Section 17 Leave Form, such as

- Dates and times of beginning and end of the period of leave
- Place of residence whilst on leave, address and telephone number
- Any exclusions, e.g. do not drive whilst on leave
- Any medications, including schedule

It should be made clear on the form by the responsible clinician that if leave conditions are not adhered to, leave may be revoked.

18.3. In each case, a Section 17 Leave of Absence Form is to be completed and signed by the responsible clinician.

18.4. A copy should be given to the patient, care co-ordinator, nearest relative (if appropriate), and any other appropriate person, a copy placed in the patients paperlight file, and attached to the EPR records

18.5. All parts of the form need to be completed and if appropriate N/A entered.

18.6. The nurse in charge (or equivalent) in allowing leave will make a note of the time the patients left and returned in the appropriate leave record sheet.

18.7. The patient must be cautioned about the consequences of bringing items that are prohibited into their residential areas on return from leave.

18.8. A leave form must be completed for every patient who is moved between HPFT Hospital sites, even if only for a short period and signed by the responsible clinician. This does not apply to patients who are transferred under S19.

18.9. Leave can be renewed in the patient's absence but cannot be continued beyond the date when the relevant detention order terminates.

18.10. The Absent Without Leave (AWOL) Policy needs to be initiated if there has been no communication with the patient, and it is clear that the patient has no intention of returning from leave.

19. Training and Awareness

Course	For	Renewal Period	Delivery Mode
MHA Overview	Anyone that deals with patients detained under the MHA. This includes all clinical in-patient and out-patient staff	3 years	E Learning available via Discovery. Face to face training available by request

Process for monitoring compliance with this document

Key process for which compliance or effectiveness is being monitored	Monitoring method (i.e. audit, report, on-going committee review, survey etc.)	Job title and department of person responsible for leading the monitoring	Frequency of the monitoring activity	Monitoring Committee responsible for receiving the monitoring report/audit results etc.	Committee responsible for ensuring that action plans are completed
Ward/unit staff to ensure that patients do not leave the ward unless this has been authorised by the RC.	Check that leave forms are current and signed by the RC before allowing leave.	Team Managers	On-going	MHA Quality and Policy Group	QRMC
Update policy with any changes to the MHA	Ensure that all available resources are checked on a regular basis	MHL Dept	On-going	MHA Quality and Policy Group	QRMC
Expired leave forms to be crossed through	Check this happens at least weekly	Ward Managers	On-going	SBU Quality and Risk Committee	QRMC

20. Embedding a culture of equality and respect

The Trust promotes fairness and respect in relation to the treatment, care and support of service users, carers and staff.

Respect means ensuring that the particular needs of 'protected groups' are upheld at all times and individually assessed on entry to the service. This includes the needs of people based on their age, disability, ethnicity, gender, gender reassignment status, relationship status, religion or belief, sexual orientation and in some instances, pregnancy and maternity.

Working in this way builds a culture where service users can flourish and be fully involved in their care and where staff and carers receive appropriate support. Where discrimination, inappropriate behaviour or some other barrier occurs, the Trust expects

the full cooperation of staff in addressing and recording these issues through appropriate Trust processes.

Access to and provision of services must therefore take full account of needs relating to all protected groups listed above and care and support for service users, carers and staff should be planned that takes into account individual needs. Where staff need further information regarding these groups, they should speak to their manager or a member of the Trust Inclusion & Engagement team.

Where service users and carers experience barriers to accessing services, the Trust is required to take appropriate remedial action.

Service user, carer and/or staff access needs (including disability)	Each patient will be treated as an individual and their specific needs and communication requirements will inform the appropriate method of communicating with them. The specific needs of people with impaired hearing or a learning disability, and those of young people, should be met. The Trust policy on "Communicating with Diverse Communities" provides further guidance. Nursing staff will identify any needs for carer assessment to ensure appropriate support is given within available resources. The needs of any service user who is pregnant will be taken into account and reflected in risk assessments and the care planning process. Where it is possible to treat a patient safely and lawfully without detaining them under the MHA, the patient should not be detained.
Involvement	Patients must be given the opportunity to understand and exercise their rights whilst detained under the MHA. The involvement of carers, family members and other people who have an interest in the patient's welfare should be encouraged (unless there are particular reasons to the contrary) and their views taken seriously.
Relationships & Sexual Orientation	All staff must take account of the needs of people in different relationships as well as those in none. This includes consideration of issues around sexual orientation (and any barriers for people around their orientation).
Culture & Ethnicity	Staff are required to recognise and respect the diverse needs, values and circumstances of each patient, including their race, religion or belief and culture as stipulated in the MHA Code of Practice guiding principles.
Spirituality	It is important for staff to have a broad understanding of how different religions and denominations will view mental health and learning disabilities. For information around any of this staff can contact the Trust Spiritual Care Team on 01923 633296.
Age	The Mental Health Act 1983 (as amended 2007) does not stipulate any age restrictions. As a service provider for all ages, it is essential that any holistic approach to care is respectful and pays due regard to people of all ages.
Gender & Gender Reassignment	All staff are aware of the importance of recognising a patient's gender identity as part of an holistic approach to care. However the Trust has operational policy regarding supporting gender identity in HPFT services and this policy should be read in conjunction with, as well as the Trust privacy and dignity policy.
Advancing equality of opportunity	Staff have a responsibility to challenge any discrimination they may witness and report back in accordance with risk management and incidents processes.

Part 3 – Document Control & Standards Information

22. Version Control

Version	Date of Issue	Author	Status	Comment
V1	Oct '08	Directorate Manager MH Legislation	Superseded	Reviewed in light of changes to MHA
V1.1	Dec '11	Directorate Manager MH Legislation	Superseded	Interim Update
V2	Aug '13	MHA Operational Manager	Superseded	Full review – now includes comments from service users and carers
V3	Oct '08	MHA Operational Manager	Superseded	Full review, put into new Trust format
V4	10th March '14	MHA Operational Manager	Superseded	Full review, put into new Trust format
V4.1	1st Apr '15	MHA Operational Manager	Superseded	Updated in light of revised MHA Code of Practice issued 1st April 15
V5	8th June '17	MHA Operational Manager	Superseded	Full review and transfer onto new policy template. S17 leave for acute services included.
V5.1	27th March 20	MHA Operational Manager/ Clinical Professional Advisory Committee	Superseded	Guidance in relation to Patient Leave including S17 Leave (MHA) during COVID-19 outbreak V1
V5.2	22nd April 20	MHA Operational Manager/ Clinical Professional Advisory Committee	Superseded	Guidance in relation to Patient Leave including S17 Leave (MHA) during COVID-19 outbreak V2
V5.3	20th May 20	MHA Operational Manager/ Clinical Professional Advisory Committee	Superseded	Guidance in relation to Patient Leave including S17 Leave (MHA) during COVID-19 outbreak v3
V5.4	05th June 20	MHA Operational	Superseded	Guidance in relation to Patient Leave including S17

		Manager/ Clinical Professional Advisory Committee		Leave (MHA) during COVID-19 outbreak v4
V6	Aug 2020	MHA Quality Manager/ Clinical Professional Advisory Committee	Superseded	Full review and guidance in relation to Patient Leave including S17 Leave (MHA) during COVID-19 outbreak v5 and addition of S17 revocation letter
V7	Dec 2020	MHA Quality Manager/ Clinical Professional Advisory Committee	Superseded	Full Review
V7.2	29.01.2021	CPAC	Superseded	The National Guidance: Legal guidance for services supporting people of all ages during the coronavirus pandemic was updated on the 25th January 2021, and this has been added to the document to replace the date of the previous version.
V7.3	26.03.2021	CPAC	Superseded	Version Update
V7.4	04.06.2021	CPAC	Current	Appendix 6 has been updated to be in line with Leave guidance as of 17th May 2021.

23. Relevant Standards

a) Mental Health Act 1983 as amended by MHA 2007
b) Equality and RESPECT: The Trust operates a policy of fairness and RESPECT in relation to the treatment and care of service users and carers; and support for staff.
c) The Procedural document Management System 2017

24. Associated Documents

AWOL Policy
Rights of Victims Policy
Community Treatment Order Policy

25. Supporting References

Mental Health Act 1983
Mental Health Act 2007
Mental Health Act Code of Practice
Mental Health Act Reference Guide
Mental Health Act Manual
Care Act 2014
Accessible Information Standard 2016

Part 4 Appendices

26. Consultation

Lead Nurses	Modern Matrons
Mental Health Legislation Department	Responsible clinicians
SBU Service Line Leads	

Appendix 1

Guiding Principles – MHA Code of Practice, Chapter 1
It is essential that all those undertaking functions under the Act understand the five sets of overarching principles which should always be considered when making decisions in relation to care, support or treatment provided under the Act.

The MHA Code of Practice stresses that the principles should be considered when making decisions under the Act. Although all are of equal importance the weight given to each principle in reaching a particular decision will depend on context and the nature of the decision being made.

The five overarching principles are:

- ***Least restrictive option and maximising independence***

Where it is possible to treat a patient safely and lawfully without detaining them under the Act, the patient should not be detained. Wherever possible a patient's independence should be encouraged and supported with a focus on promoting recovery wherever possible.

- ***Empowerment and involvement***

Patients should be fully involved in decisions about care, support and treatment. The views of families, carers and others, if appropriate, should be fully considered when taking decisions. Where decisions are taken which are contradictory to views expressed, professionals should explain the reasons for this.

- ***Respect and dignity***

Patients, their families and carers should be treated with respect and dignity and listened to by professionals.

- ***Purpose and effectiveness***

Decisions about care and treatment should be appropriate to the patient, with clear therapeutic aims, promote recovery and should be performed to current national guidelines and/or current, available best practice guidelines.

- ***Efficiency and equity***

Providers, commissioners and other relevant organisations should work together to ensure that the quality of commissioning and provision of mental healthcare services are of high quality and are given equal priority to physical health and social care services. All relevant services should work together to facilitate timely, safe and Supportive Discharge from Detention.

Terminology	How it is to be understood	Exceptions
Must	Reflects legal obligations which it is essential to follow	No exceptions
Should	For those to whom this is statutory guidance see paragraphs II – V For those to whom it is not statutory guidance VI – VII	See paragraphs II – VII. Any exceptions should be documented and recorded including the reason for this. Patients, their families and carers, regulators, commissioners and other professionals may ask to see this
May/could/can	Reflects guidance to be followed wherever possible	Good practice but exceptions permissible

Appendix 2
Section 17 MHA AUTHORISATION BY RC FOR PATIENT LEAVE OFF THE WARD / UNIT

as one

Hertfordshire Partnership NHS
University NHS Foundation Trust

Name of patient:				NHS No.:	
Ward / Unit:		If patient goes	to a new ward,	Ministry of Justice authorisation needed?	Copy to: Patient ☐
Name of RC:		new RC or duty	consultant to	☐ N	Escort / person accompanying* ☐
Section:		re-write or old	RC documents	☐ Y & authority is on file	ADTU / CATT* ☐
Date:	dd/mm/yy	existing leave	can continue.	RC sign:	* if applicable

EVEN LEAVE AGREED BY THE RC IS AT THE DISCRETION OF THE NURSE IN CHARGE OF THE WARD/UNIT.
Nursing staff can cancel some or all leave, pending review by the RC, by completing the cancellation boxes.

ESCORTED = by hospital staff, care co-ordinator, other clinically involved professionals
ACCOMPANIED = by family member, friend, etc. who is an adult - must collect from and return to the ward/unit or staff
UNESCORTED = another person not required to be present

Overnight leave: destination address and contact number to be recorded on the form. If > 7 days, please document on Paris why a CTO is not (yet)

** cross through whole box once leave has expired

A	Valid from: dd/mm/yy	Valid to: ** dd/mm/yy	Frequency:	Destination / activity / reason:
	Duration:	betw hh:mm	een hh:mm	
Escorted ☐	Details of person(s) escorting/accompanying e.g. number, gender, relationship			Conditions: if complex, please use detail box on reverse & tick ☐
Accompanied ☐				
Unescorted ☐	N/A			

Authorised by RC		Agreed by patient***		Cancellation of leave - also cross through whole box		
RC signature:		Patient signature:		Reason(s):	Signature:	
Date: dd/mm/yy		Date: dd/mm/yy		Name & designation:	Date: dd/mm/yy	Time: hh:mm

B	Valid from: dd/mm/yy	Valid to: ** dd/mm/yy	Frequency:	Destination / activity / reason:
	Duration:	betw hh:mm	een hh:mm	
Escorted ☐	Details of person(s) escorting/accompanying e.g. number, gender, relationship			Conditions: if complex, please use detail box on reverse & tick ☐
Accompanied ☐				
Unescorted ☐	N/A			

Authorised by RC		Agreed by patient***		Cancellation of leave - also cross through whole box		
RC signature:		Patient signature:		Reason(s):	Signature:	
Date: dd/mm/yy		Date: dd/mm/yy		Name & designation:	Date: dd/mm/yy	Time: hh:mm

C	Valid from: dd/mm/yy	Valid to: ** dd/mm/yy	Frequency:	Destination / activity / reason:
	Duration:	betw hh:mm	een hh:mm	
Escorted ☐	Details of person(s) escorting/accompanying e.g. number, gender, relationship			Conditions: if complex, please use detail box on reverse & tick ☐
Accompanied ☐				

Unescorted ☐	N/A	

Authorised by RC	Agreed by patient***	Cancellation of leave - also cross through whole box		
RC signature:	Patient signature:	Reason(s):	Signature:	
Date: dd/mm/yy	Date: dd/mm/yy	Name & designation:	Date: dd/mm/yy	Time: hh:mm

Name of patient:

** cross through whole box once leave has expired

D	Valid from: dd/mm/yy	Valid to: ** dd/mm/yy	Frequency:	Destination / activity / reason:
	Duration:	between hh:mm	hh:mm	
Escorted ☐	Details of person(s) escorting/accompanying e.g. number, gender, relationship		Conditions: if complex, please use detail box below & tick ☐	
Accompanied ☐				
Unescorted ☐	N/A			

Authorised by RC	Agreed by patient***	Cancellation of leave - also cross through whole box		
RC signature:	Patient signature:	Reason(s):	Signature:	
Date: dd/mm/yy	Date: dd/mm/yy	Name & designation:	Date: dd/mm/yy	Time: hh:mm

E	Valid from: dd/mm/yy	Valid to: ** dd/mm/yy	Frequency:	Destination / activity / reason:
	Duration:	between hh:mm	hh:mm	
Escorted ☐	Details of person(s) escorting/accompanying e.g. number, gender, relationship		Conditions: if complex, please use detail box below & tick ☐	
Accompanied ☐				
Unescorted ☐	N/A			

Authorised by RC	Agreed by patient***	Cancellation of leave - also cross through whole box		
RC signature:	Patient signature:	Reason(s):	Signature:	
Date: dd/mm/yy	Date: dd/mm/yy	Name & designation:	Date: dd/mm/yy	Time: hh:mm

Additional leave conditions (if required)

Applies to above leave box (specify):	Consider alcohol, drugs, medication, finances, driving, people/places not to visit, behaviour prior to leave, etc.	RC signature:	Date:

Appendix 3

Hertfordshire Partnership NHS
University NHS Foundation Trust

SECTION 17 LEAVE OF ABSENCE

Patient Name …… MOJ Approval Received: Yes/N/A

MHA Section: …… Unit: ……

Address of any overnight leave: ……
(*where applicable*)

Specified occasions: Date _____ **From** _____ **To**_____

Purpose: _____

Conditions: _____

_____

Escorted? : Yes/No – If "yes" by (Include number of escorts and gender):
_____

Overnight Leave of absence is authorised as follows:

From (time/date)	To (time/date)	Conditions

If proposed or consecutive leave is more than 7 days please record what consideration has been given to a Community Treatment Order and why is has not been used:

These arrangements will continue until they are reviewed on or before:
_____**(time/date)**

Authorised by _____ (R.C.) Date: _____

Name of responsible clinician

Copy to: Patient □ Carer □ MHA Office □ Patient File □ Escort □ Other □ EPR □

Leave to be granted at discretion of the Nurse in Charge on the date requested at the time the leave is to be taken. **The AWOL policy must be implemented in patient fails to return from leave.**

EXPIRED SECTION 17 LEAVE FORMS MUST BE CROSSED THROUGH

Appendix 4

Defined Grounds of HPFT Units

A Section 17 leave form does not have to be completed for a patient utilising “ground leave”. Ground Leave can be in any designated areas of the grounds; this could be to attend day care departments, clinics and any leisure or recreation facilities within the defined grounds of each unit.

Ground Leave for HPFT units are defined as all patient accessible areas within the unit and any garden area within the perimeter fence.

HPFT Exceptions - Kingsley Green

Forest House – The defined grounds include the school

Kingfisher Court – The “grounds” have been defined as the area from the access/egress doors from the reception area to the wards and any gardens accessible from the wards. Any leave outside this area will have to be authorised by the responsible clinician, this includes leave to go into the reception area, café etc.

Appendix 5- Section 17 Revocation Letter

Hertfordshire Partnership University NHS Foundation Trust

Ward/Unit Address

Name/Address of patient

Date xx.xx.xx

Dear *(Name of patient),*

As your responsible clinician I am revoking your Section 17 leave with immediate effect because:

Insert reasons why leave is being revoked

It is necessary for me to do this in the interests of your health and safety and/or the protection of other people* Delete as appropriate

Arrangements have been made for you to be recalled to (*name of ward/unit)* for your mental health to be reviewed.

Yours sincerely

Name

Responsible Clinician

Appendix 6

NHS
Hertfordshire
Partnership University
NHS Foundation Trust

Guidance in relation to Patient Leave including S17 Leave (MHA) during COVID-19 outbreak

13th May 2021 V.12

This guidance is temporary and to be followed during the Coronavirus Crisis. The Government are regularly reviewing current restrictions and these guidelines will be updated accordingly. As a trust we need to ensure our service users have their rights fully respected as well as balancing the need to keep our service users, staff and members of the public protected.

The purpose of this guidance is to ensure Government restrictions are fully adhered to by all inpatients, whilst promoting their health and wellbeing.

National lockdown: Stay at Home
England is still in a national lockdown. You must stay at home, leaving only where permitted by law, and follow the rules in this guidance

From 8th March, the government introduced a four-step roadmap to offer a route back to a more normal life.

Some of the rules on what you can and cannot do will change on 17 May. However, many restrictions remain in place.

Step 3 – From 17 May 2021

- Gathering limits will be eased. Outdoor gatherings will be limited to 30 people and indoor gatherings will be limited to 6 people or 2 households (each household can include a support bubble, if eligible). You must not interact with anyone outside of your own group (of 30 people outdoors or six people indoors).
- Government guidance remains that you should stay 2 metres apart from anyone who is not in your household or support bubble where possible, or 1 metre with extra precautions in place (such as wearing face coverings) if you cannot stay 2 metres apart. As we proceed down the roadmap and as vaccination protects more of the population, the emphasis will shift from government rules to personal responsibility. So instead of instructing you to stay 2m apart away from anyone you don't live with, you will be encouraged to exercise caution and consider the risks.
- Indoor entertainment and attractions such as cinemas, theatres, concert halls, bowling alleys, casinos, amusement arcades, museums and children's indoor play areas will be permitted to open with COVID-secure measures in place.
- People will be able to attend indoor and outdoor events, including live performances, sporting events and business events. Attendance at these events will be capped according to venue type, and attendees should follow the COVID-secure measures set out by those venues.

- Indoor hospitality venues such as restaurants, pubs, bars and cafes can reopen.
- Organised indoor sport will be able to take place for all (this includes gym classes). This must be organised by a business, charity or public body and the organiser must take reasonable measures to reduce the risk of transmission.
- All holiday accommodation will be open (including hotels and B&Bs). This can be used by groups of up to 6 or 2 households (each household can include a support bubble, if eligible).
- There will no longer be a legal restriction or permitted reason required to travel internationally. There will be a traffic light system for international travel, and you must follow the rules when returning to England depending on whether you return from a red, amber or green list country.

Social distancing is still very important. You should stay 2 metres apart from anyone who is not in your household or support bubble where possible, or 1 metre with extra precautions in place (such as wearing face coverings) if you cannot stay 2 metres apart.

Service users who are in isolation due to suspected or confirmed Covid-19 will not be able to leave their designated isolation / cohort area.

Ward staff should ensure that every service user is advised of ways in which they can obtain exercise if they wish. This can be facilitated by utilising the hospital grounds, ward gyms, ward gardens or outside areas/courtyard areas within the ward location. Ground leave will, as usual, be dependent upon individualised risk assessments and care plans.

Hospitals should, as far as possible be facilitating leave, in line with public health guidance, in order to support the health and wellbeing of inpatients. This may be particularly important in the case of service users with a learning disability and/or autism, where preventing or reducing leave may represent a change in the service user's routine, potentially having detrimental effects on the individual's mental health[1].

It may be necessary to apply additional measures to reduce risk of community transmission, where appropriate. For example, if leave is granted to the grounds of the hospital, measures can be taken to reduce close interaction between service users, by staggering leave and by imposing time restrictions. This may be necessary for sites such as Kingfisher Court where several wards have access to the grassed area and benches outside the front of the building.

Section 17 leave

Section 17 leave is required when a detained service user wishes to leave the perimeter of the Trust property.

Section 17 leave should still be made available to individuals where this is appropriate, particularly where it is an important part of discharge planning. Due consideration must be given to Government guidance and the requirements on social distancing and need to reduce risk of transmitting COVID-19. Consideration must also be given to the current Government restrictions that are in place at the time leave is granted and is planned to be taken.

Service users who have the capacity to understand public health advice, such as social distancing measures and wearing of face coverings or face masks, should be assumed to be

[1] NHSE -Legal guidance for services supporting people of all ages during the coronavirus pandemic: Mental health, learning disability and autism, specialised commissioning 25/01/2021

able to comply with this advice if granted leave, unless there is evidence to the contrary. COVID 19 Guidance leaflet should be given to all service users leaving the ward.

Responsible Clinicians are asked to consider the current government guidelines in making any decisions on granting section 17 leave to inpatients and should take reasonable measures to try and ensure that the guidelines on social contact, distancing and wearing of face coverings or face masks are able to be adhered to by the patient. Consideration should be given as to whether an escort is needed to help ensure compliance with Public Heath England advice. If Section 17 leave has been granted where the patient is accompanied by a family member/friend, all parties need to be reminded about adhering to guidelines on social distancing and wearing of face coverings or face masks.

The Responsible Clinician must be satisfied that the patient can adhere to the necessary social contact, distancing, wearing of face masks and hygiene standards that will be in place before granting Section 17 leave to a public place. However Responsible Clinicians and treating teams should take into account the reasonable adjustments on this regulation that may be needed and use their clinical judgment in making a final decision.

Leave outside the trust premises may also be granted if it is with a view to discharging a patient following the end of the leave period.

Section 17 leave should be considered on an individual case by case basis and be granted following risk assessment by the Responsible Clinician and a further risk assessment at the time the leave is due to be taken, in line with the S17 leave policy.

Teams will need to use their clinical discretion in consultation with patients / carers when permitting leave.

Ground Leave

Ground Leave for HPFT units is defined as all patient accessible areas within the unit and any garden area within the perimeter fence.

HPFT Exceptions - Kingsley Green

Forest House – The defined grounds include the school

Kingfisher Court – The “grounds” have been defined as the area from the access/egress doors from the reception area to the wards and any gardens accessible from the wards. Any leave outside this area will have to be authorised by the responsible clinician, this includes leave to go into the reception area, café etc.

Restricted Patients

Any proposal to grant leave to a restricted patient has to be approved by the Secretary of State for Justice. See HPFT guidance document – ‘Patients subject to a restriction order under the Mental Health Act – Covid-19’ for further information.

Informal Patients

Informal patients do not require authorisation for ground leave.
They may wish to undertake periods of leave in line with the current national guidance for all citizens. As part of this decision the clinical team will need to balance the needs of the patient and their ability to adhere to the government guidelines in respect of social distancing and wearing of face coverings or face masks alongside the rights of other patients and staff members.

Informal patients who are considered safe to utilise extended periods of leave should be reviewed for discharge.
If an informal patient wishes to leave the Trust premises, they may not be stopped from leaving unless they meet the criteria for detention under Section 5(4) or Section 5(2), which are as follows;

Section 5(4)(a) … the patient is suffering from **mental disorder to such a degree** that it is necessary for his health or safety or for the protection of others for him to be immediately restrained from leaving the hospital

Section 5(2): …it appears to the registered medical practitioner… that an application ought to be made under this Part of this Actit appears to the registered medical practitioner…that an application ought to be made under this Part of this A it appears to the registered medical practitioner…that an application ought to be made under this Part of this A

Medical Treatment
In the event a detained patient requires medical treatment outside the Trust perimeter, Section 17 leave should be authorised by the patient's RC. In the event a detained patient requires **emergency** medical treatment outside the Trust perimeter, Section 17 emergency leave should be used by ward staff in the usual way before being retrospectively authorised by the RC.

Smoking
The Trust operates a no smoking policy on all sites. There are significant risks associated with smoking and Covid 19 and therefore patients will be supported with Nicotine Replacement Therapy.

For further advice please contact your local Mental Health Legislation department. Or email Hpft.mentalhealthact@nhs.net