MENTAL HEALTH ACT 1983
SECTION 17
LEAVE OF ABSENCE

Policy Details

<table>
<thead>
<tr>
<th>NHFT document reference</th>
<th>CLP 025</th>
</tr>
</thead>
<tbody>
<tr>
<td>Version</td>
<td>Final 30/4/2013</td>
</tr>
<tr>
<td>Date Ratified</td>
<td>03.09.2013</td>
</tr>
<tr>
<td>Ratified by</td>
<td>Trust Policy Board / Board of Directors</td>
</tr>
<tr>
<td>Implementation Date</td>
<td>04.09.2013</td>
</tr>
<tr>
<td>Responsible Director</td>
<td>Richard McKendrick, Director of Specialty Services</td>
</tr>
<tr>
<td>Review Date</td>
<td>03.09.2015</td>
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</table>
| Related Policies & other documents | Informal Leave Policy CLP014
Absent Without Leave Policy CLP028 |
| Freedom of Information category | Policy |
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   5.2 Director of Specialty Services
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   5.4 Head of Communications
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The current version of any policy, procedure, protocol or guideline is the version held on the NHFT internet. It is the responsibility of all staff to ensure that they are following the current version.

Mental Health Act 1983 Section 17 Leave of Absence Policy 3 of 18 Implementation Date: 04.09.2013
1. DOCUMENT CONTROL SUMMARY

<table>
<thead>
<tr>
<th>Document Title</th>
<th>Mental Health Act 1983 – S.17 Leave of Absence</th>
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<tbody>
<tr>
<td>Document Purpose (executive brief)</td>
<td>To ensure that staff are aware of their responsibilities for granting leave under the Mental Health Act 1983.</td>
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<tr>
<td>Status: - New / Update/ Review</td>
<td>Review</td>
</tr>
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<td>Areas affected by the policy</td>
<td>Mental Health – Adult, Older Adults, Forensics, Rehab, CAMHS and LD</td>
</tr>
<tr>
<td>Policy originators/authors</td>
<td>Beth Brand, Mental Health Act Manager</td>
</tr>
<tr>
<td>Consultation and Communication with Stakeholders including public and patient group involvement</td>
<td>Directorate Leads Ward Managers all clinical in-patient areas</td>
</tr>
<tr>
<td>Archiving Arrangements and register of documents</td>
<td>The Risk Management Team is responsible for the archiving of this policy and will hold archived copies on a central register</td>
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<tr>
<td>Equality Analysis (including Mental Capacity Act 2007)</td>
<td>See Appendix 1</td>
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<tr>
<td>Training Needs Analysis</td>
<td>See Section 7</td>
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<tr>
<td>Monitoring Compliance and Effectiveness</td>
<td>See Section 8</td>
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<tr>
<td>Meets national criteria with regard to</td>
<td>None</td>
</tr>
<tr>
<td>NHSLA</td>
<td>None</td>
</tr>
<tr>
<td>NICE</td>
<td>N/A</td>
</tr>
<tr>
<td>--------</td>
<td>--------------------------</td>
</tr>
<tr>
<td>NSF</td>
<td>Mental Health Act 1983</td>
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</table>

**Mental Health Act**

- s.17 Mental Health Act 1983 – Department of Health
- Chapter 20 Mental Health Act 1983, Code of Practice – Department of Health

**CQC**

- None

**Other**

- None

**Further comments to be considered at the time of ratification for this policy** (i.e. national policy, commissioning requirements, legislation)

- None

**If this policy requires Trust Board ratification please provide specific details of requirements**

- None
2. INTRODUCTION

This Section makes provision for certain patients who are detained under the Mental Health Act 1983 (MHA) to be granted leave of absence for any reason. Section 17 MHA applies to patients detained under Sections 2, 3, 4 and 37 of the MHA. Patients detained under a restriction order require Ministry of Justice (MOJ) approval prior to leave being granted. This policy should be read in conjunction with the NHFT Care Programme Approach Policy and Practice Guidance (CLP010).

Without authorised leave of absence under Section 17 MHA any patient is absent unlawfully, and the Absence without Leave policy should be followed (CLP028).

Granting of leave should not be used as an alternative to discharging a patient, although it may be used to assess an unrestricted patient’s suitability for discharge.

Section 17 MHA can be used when transferring a patient to a general hospital for physical treatments. When appropriate the Section 17 leave MHA form should be completed in advance, however there are times where this may not always be possible (e.g. when a patient needs urgent physical treatment).

3. PURPOSE

This policy is designed to provide staff with sufficient guidance; in order to ensure effective compliance with providing leave to detained patients in accordance with s.17 MHA and Code of Practice.

4. DEFINITIONS

- AWOL – Absent Without Leave
- COP – Code of Practice
- MDT – Multi Disciplinary Team
- MHA - Mental Health Act 1983
- MOJ – Ministry of Justice
- NHFT – Northamptonshire Healthcare NHS Foundation Trust
- RC – Responsible Clinician
- SCR – Single Clinical Record
- SCT – Supervised Community Treatment
5. **DUTIES**

5.1 **Chief Executive**

Is responsible for ensuring the principles of this policy and procedures and other associated policies are implemented across the organisation.

5.2 **Director of Specialty Services**

Is responsible for ensuring the implementation of this policy across clinical areas.

5.3 **Inpatient Members of Staff (including Responsible Clinician and Multidisciplinary Team)**

Are responsible for ensuring that they comply with the s.17 MHA Leave of Absence policy.

5.4 **Head of Communications**

Where media publicity is required the Northamptonshire Healthcare NHS Foundation Trust Head of Communications will coordinate this.

5.5. **Head of Risk and Patient Safety**

Is responsible for notifying the PCT of all s.17 MHA Incidents that are classified as Serious Incidents

5.6 **The Head of Service Development for Mental Health**

Is responsible for ensuring that 'Learning Lessons' forums are facilitated.

6. **POLICY PROCESS**

6.1 **RESPONSIBILITIES**

Only the patients Responsible Clinician (RC) can grant leave: the power cannot be delegated. The RC is responsible for undertaking any appropriate consultation, and may authorise leave subject to conditions which he or she considers necessary in the interests of the patient, and/or the protection of other people. In the absence of the RC (for example if he/she is on annual leave) permission can only be granted by the Doctor who is for the time being in charge of the patients treatment. For all restricted patients, Ministry of Justice approval for leave must be scanned into ePEX.
6.2 PLANNING S.17 LEAVE

Leave of absence should only be granted after careful consideration by the Multi-disciplinary team (MDT) and patient, and should be, where possible planned well in advance in conjunction with the identified pathway of care. The patient should be able to demonstrate to the MDT that he/she is likely to cope outside the unit and subject to the patient’s consent there should be detailed consultation with any appropriate relatives or friends and with community services. (If the patient does not give consent for the leave information to be shared with appropriate carers/relatives/friends etc, the reason for this should be explored further.)

Every effort must be made to ensure that all patients, and where appropriate, carers are included within the discharge planning process and that they understand their rights under the MHA 1983, this can be achieved using the following resources; approved translation services, advocacy, leaflets, big print forms, visual aids, family/carer assistance (where appropriate). Where it is evident that the patient does not understand his/her rights or the discharge process, a care plan addressing this must be implemented.

Leave can be an important part of the patient’s treatment plan, and can be granted for specific occasions and/or for long/short periods of time. The RC must consider Supervised Community Treatment (SCT) when granting leave of 7 consecutive days or more. The reasons for reaching the decision to grant leave and not SCT should be recorded in the SCR. This does not apply to Restricted patients or patients detained under Section 2 as they are not eligible for SCT.

The provision of s.17 leave remains available whilst the patient remains liable to be detained; subject to regular review. The period of leave can be extended by the RC in the patient’s absence.

If there has been deterioration in the patients mental state and it is believed that the risks are greater than originally assessed, nursing staff may withhold authorised Section 17 MHA leave. If leave is withheld the RC must be informed immediately.

6.3 RECORD KEEPING

The granting of leave and the specific conditions attached to it should be recorded in the patients SCR, a more detailed record will be recorded on the s.17 MHA local form. (Appendix 1) The form must be completed by the RC, copies of the form and MOJ approval documentation should be
given to the patient, carer (where appropriate), care co-ordinator and scanned directly onto ePEX.

**Relative/Carers must be made aware of whom to contact if any concerns arise during the period of leave.**

The nursing staff are responsible for ensuring that the patient is aware of the conditions of leave and the implications of non compliance with the leave conditions. It must be made clear that the time restrictions are important as these define the point at which the patient becomes absent without leave (AWOL).

Prior to leave being undertaken, the patient should have in place a specific care plan relating to leave (including crisis planning), and have had an up to date risk assessment.

If nursing or medical staff have withheld authorised Section 17 leave, the reasons for this must be clearly explained to the patient, and documented ePEX. All other persons involved with the leave must be informed that leave has been cancelled.

If authorised leave has been cancelled, it is deemed as good practice to review and update the patient’s plan of care, including the Section 17 leave form and risk assessment.

On commencement of leave the nursing staff must record in the ePEX the time and date the patient left the unit, the time and date they are due to return, where the patient is going (ensuring you have the correct contact details) and what clothing they are wearing.

Leave information pertaining to the patient will be discussed in the unit handover, at any given time the nurse in charge of the unit will be responsible for taking further action if the patient has not complied with the leave restrictions or following a crisis situation appertaining to the patient.

### 6.4 CARE AND TREATMENT WHILE ON LEAVE

The RC’s responsibilities for the patient’s care remain the same while he/she is on leave. Consent to treatment provisions under part 4 of the MHA continue to apply, if it becomes necessary to give treatment to the patient without their consent consideration should be given and documented to recalling the patient back to hospital.

The refusal of treatment will not be sufficient grounds on its own for recall, the RC would also have to be satisfied that it was necessary in the patient’s interest or for the protection of others.
6.5 REVOKING THE SECTION 17

The RC may recall a patient from leave at any time if it is in the interests of the patient’s health, safety or necessary for the protection of others. In such circumstances the RC must arrange for a notice (see appendix 2) invoking the leave to be served on the patient or on the person currently in charge of their care. This notification must be communicated to other relevant persons (i.e. carers, MDT professionals). The reasons for the recall should be fully explained to the patient and a record of the explanation to be entered onto ePEX.

A restricted patient’s leave may be revoked either by the RC or the MOJ in the same manner as above.

6.6 ABSENT WITHOUT LEAVE

When a patient becomes AWOL, follow NHFT Section 18 MHA ‘83’ - AWOL policy. (CLP028)

6.7 RENEWAL OF THE AUTHORITY TO DETAIN

A period of leave cannot last longer than the expiration of the Section. A patient cannot be recalled back from leave for the sole purpose of renewing their detention. If the authority to detain an unrestricted patient might expire whilst on leave, the RC may examine the patient and consider writing a report renewing the detention.

If the RC thinks that further formal in-patient treatment is necessary and the statutory criteria are met the detention can be renewed.

6.8 MONITORING AND AUDITING THE USE OF SECTION 17

Section 17 MHA leave forms and clinical records pertaining to Section 17 will be subject to ad hoc monthly audit by the MHA admin team and reported to Mental Health Act Scrutiny Committee.

6.9 HUMAN RIGHTS ACT 1998

When dealing with occasions which do require formal leave under Section 17 MHA, it will be important to ensure that the RC ensures that:

- There are no unnecessary delays in the granting of leave.
- The conditions attached to Section 17 leave are reasonable and proportionate; (The European court of Human Rights have confirmed, in L v Sweden, that it is acceptable to impose a condition upon leave that the patient will continue to accept medical treatment); and
- There must be adequate reasons for revoking S.17 MHA leave.
If the above criteria are not applied the patient may contend that his/her Article 5 & 8 of the Human Rights Act have been breached.

7. **TRAINING**

7.1. **Mandatory Training**

There is no mandatory training associated with this policy.

7.2. **Specific Training not covered by Mandatory Training**

Specific training around the use of s.17 and S.18 Mental Health Act 1983 will be provided by the Mental Health Act/Capacity Advisors to doctors and qualified nursing staff on:
- An ad hoc basis.
- Yearly Mental Health Act 1983 updates

Training logs will be kept up to date by the MHA/MCA Advisors.

8. **MONITORING COMPLIANCE WITH THIS DOCUMENT**

The table below outlines the Trusts’ monitoring arrangements for this document. The Trust reserves the right to commission additional work or change the monitoring arrangements to meet organisational needs.

<table>
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<th>Aspect of compliance or effectiveness being monitored</th>
<th>Method of monitoring</th>
<th>Individual responsible for the monitoring</th>
<th>Monitoring frequency</th>
<th>Group or committee who receive the findings or report</th>
<th>Group or committee or individual responsible for completing any actions</th>
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<tbody>
<tr>
<td>Completion &amp; Signature of Leave Forms</td>
<td>Audit of leave forms &amp; ePEx entries.</td>
<td>MHA/MCA Advisors</td>
<td>Monthly</td>
<td>Standing Agenda on the Mental Health Act Scrutiny Committee.</td>
<td>Mental Health Act Manager &amp; Head of Hospitals.</td>
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<td>Review of Revocation of Leave</td>
<td>Audit of ePEx entries and revocation letter.</td>
<td>MHA/MCA Advisors</td>
<td>Monthly</td>
<td>Standing Agenda on the Mental Health Act Scrutiny Committee.</td>
<td>Mental Health Act Manager &amp; Head of Hospitals.</td>
</tr>
</tbody>
</table>

Where a lack of compliance is found, the identified group, committee or individual will identify required actions, allocate responsible leads, target completion dates and ensure an assurance report is represented showing how any gaps have been addressed.
9. REFERENCES AND BIBLIOGRAPHY


10. RELATED TRUST POLICY

- CLP010 NHFT Care programme Approach policy & Practice Guidance
- CLP028 Mental Health Act 1983, s.18 Absent without Leave Policy.

11. APPENDICES

   Appendix 1  Leave Form
   Appendix 2  Recall letter
   Appendix 3  Equality Analysis Report
The decision to grant leave rests with the patient’s Responsible Clinician. It is not a decision that can be devolved to any other doctor. The leave is given at the Nurses discretion at the time the leave is due to commence.

I, (full name of RC) __________________________________________________________ am the Responsible Clinician for (full name of patient) ________________________________________________________ who is currently detained under Section _________ of the Mental Health Act 1983 on (ward) ____________________ hereby authorise that leave from the ward be granted as follows:

* (Please delete as applicable and complete as appropriate)

1. **Day Leave**
   - To be escorted by (full name) ____________________________
   - Unescorted Leave
   - To go to (full address) ____________________________
   - from (date & time) ______________________ until (date & time) ______________________
   - * OR for _______ hours between (time) __________________ until (time) __________________

   **Other Leave Conditions** (specify carefully)

2. **Overnight Leave**
   - To be escorted by (full name) ____________________________
   - Unescorted Leave
   - To go to (full address) ____________________________
   - from (date & time) ______________________ until (date & time) ______________________

   **Other Leave Conditions** (specify carefully)

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**SCT consideration**

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If leave is authorised for over 7 consecutive nights SCT **must** be considered. If at this time SCT is not considered appropriate the reasons for this **must** be documented in the patient’s records.

**THIS LEAVE IS VALID FOR _________WEEK(S)/MONTH(S) FROM THE DATE OF SIGNATURE**

AND IS TO BE REVIEWED ON ____________

I have explained to the patient their rights in respect of leave from hospital and return, also readmission of patients absent without leave * **OR** ** It is not practicable to explain to the patient due to them lacking capacity to understand at this current time.

RC Signature ________________________________ Date of Signature _________________________

My Responsible Clinician has discussed my leave with me. I agree to abide by the terms and conditions and have received a copy of my leave form. **This must be signed prior to the commencement of leave.**

Patient’s Signature ___________________________ Date of Signature _________________________

* I have/have not shared this information with the Carer/Relative. **If the information has not been shared full reasons why not must be documented in the patient’s records.**

Nurses Signature _____________________________ Date of Signature _________________________

Printed copy to Patient, Relative/Carer, MHA dept.
Appendix 2 – Revocation of Leave letter

Mental Health Administration
1st Floor,
Berrywood Hospital
Berrywood Drive
Northampton

Tel: 01604 682656/2657

Date:

Dear

This letter is to inform you that, by using the Powers under Section 17(4) of the Mental Health Act (1983), your leave has been revoked and you are hereby recalled to hospital.

Yours sincerely

Responsible Clinician
APPENDIX 3 – EQUALITY ANALYSIS REPORT

<table>
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<tr>
<th>Date analysis commenced:</th>
<th>20.5.2013</th>
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<tr>
<td>Assessing officers</td>
<td>Beth Brand, Mental Health Act Manager</td>
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</table>

**Name and description of policy (service review/resign, strategy, procedure, project, programme, budget, or work being undertaken) including the aims and objectives:**

Mental Health Act 1983 – s.17 Leave of Absence Policy

This policy is designed to provide staff with sufficient guidance; in order to ensure effective compliance with providing leave to detained patients in accordance with s.17 MHA, Code of Practice and Human Rights Act 1988.

**Evidence and Impact – provide details data community, service data, workforce information and data relating specific protected groups.**


**Overall population: 700,000 circa**

- Black and Minority Ethnic - 8%
- Gender - 49.6% males; 50.4% females, 1% transgender
- Disabled people – 19% (including 3.5 % < aged under 18)
- Faith communities – 71% Christian; minority faith community 29%
- Sexual orientation (gay, lesbian or bisexual) - 5-7%

**NHFT Workforce profile: 4,400**

- Age profile – 16- 20 (0.4%); 20-25 (3.8%); 26-30 (7.4 %); 31-35 (11%), 35- 40 (13.6%), 41-45 (13.4%); 45-55 (15.9%); 51-55 (15.3%), 56-60 (10.7%), 61-65 (6.6%), 66-70 (1.3%), 71+ (0.6%)
- Disabled – 3.5% declare a disability, 33% of staff do not disclose disability.
- Gender - 3,019 (76%) female; 559 (24%) male, (no record for transgender)
- Black and Minority Ethnic - 82% of staff declare as white, 28% of staff self define as BME
- Religious Belief - Christian at 49%, atheist 5% and other 5%
- Sexual Orientation - 42.6% of staff do not declare sexual orientation.

Service Information:

<table>
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<th>Protected Groups (Equality Act 2010)</th>
<th>STAGE 3: Consider the effect of our actions on people in terms of their protected status?</th>
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<tr>
<td>Disability</td>
<td>No Impact</td>
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<tr>
<td>Gender (inc. Pregnancy and maternity)</td>
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<td>Gender reassignment</td>
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<td>Sexual Orientation (incl. Marriage &amp; civil partnerships)</td>
<td>No Impact</td>
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<tr>
<td>Race</td>
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</tr>
<tr>
<td>Religion or Belief</td>
<td>No Impact</td>
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Equality Analysis outcome: Having considered the potential or actual effect of your project, policy etc, what changes will take place?
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<th>Ratification:</th>
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<tr>
<td>Approving Officers</td>
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