HM Prison & Probation Service

Ministry of Justice

Mental Health Casework Section

Restricted Patients and the Role of the Secretary of State for Justice

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Not for onward circulation

MHCS and Prison Mental Health

Whistle stop tour of MHCS our role and responsibilities

Prison and Health in Theory and In Reality

Who are MHCS

The Mental Health Casework Section are a Headquarters function within His Majesty's Prison and Probation Service

Based in outer London, but work nationally – we deal with all restricted patients regardless of their geographical location

Caseload of 7,723 restricted patients (as of March 2023), mix of both detained and discharged.

Our primary focus is public protection and we also consider victims issues as part of our processes

Make decisions on restricted patient cases – work with those detained in a variety of hospital environments, secure and non-secure

What can you expect today – whistle stop tour of the restricted patient system, who we are, what we do and how we can work together

MHCS in numbers

Team of 64 civil servants in HMPPS

MHCS received over 8,593 decisions and requests for work in 2022/23

2853 Section. 17 leave requests

768 transfers to other hospitals

1464 prison transfers and remissions

317 recalls

252 discharges

2872 Tribunal statements produced

Which Patients do MHCS deal with?

MHCS act as the Secretary of State for Justice under delegated authority

For MHCS purposes, Restricted Patients (sometimes known as Mentally Disordered Offenders) are any of the following:

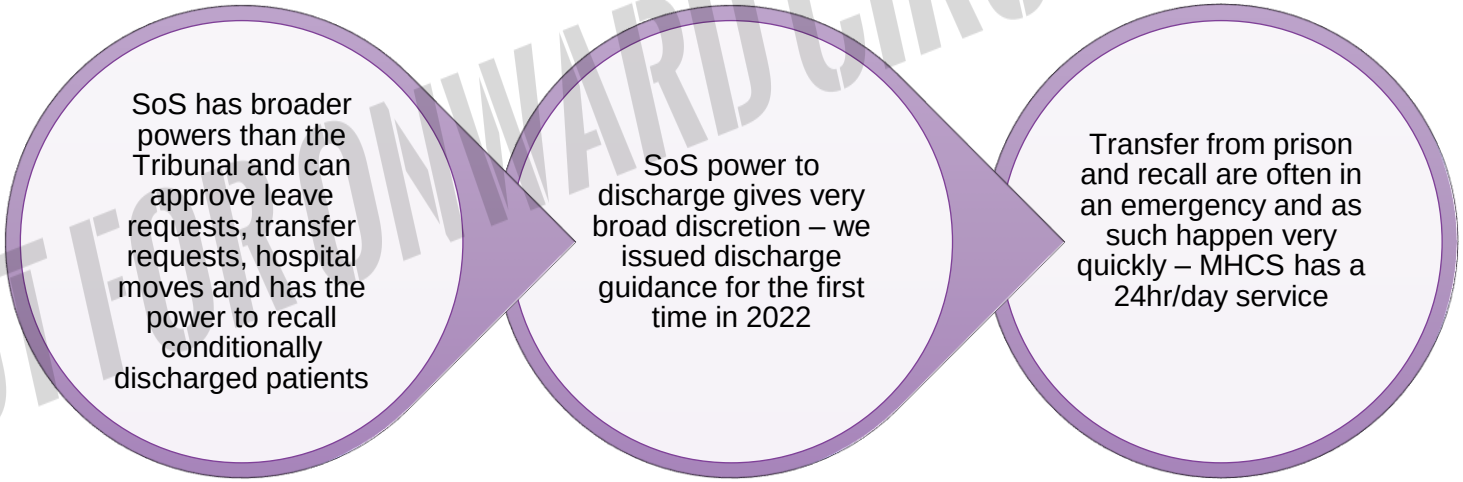
Hospital Order (s37) with restrictions added under s41 (including those found unfit to plead and not guilty by reason of insanity) – detained or discharged into the community	Transfer direction (s47): convicted prisoners transferred to hospital with restrictions added under s49	Transfer direction (s48): remand and unsentenced prisoners, Immigration Detainees and Civil Prisoners transferred to hospital with restrictions added under s49	Hospital directions (s45A/45B): patients with a parallel prison sentence who will be sent to prison if treatment in hospital is successful	Patients must be in England and Wales

When will you come across MHCS

NAPICU members will have direct contact with MHCS if they have responsibility for a restricted patient and it is essential that you are aware of the implications of this.

Why do you need to know about MHCS

- It is helpful to consider the context within which MHCS is working – we are part of HM Prison and Probation Service – and often known as MoJ!
- We are making decisions on behalf of the Secretary of State for Justice, *our focus needs to balance criminal justice and MHA contexts*
- We are not clinically or legally trained



Public Protection

The Secretary of State's primary concern is protection of the public from harm.

In making decisions under the Act, officials with delegated responsibility will always:

- Base decisions on risk assessment
- Consider the clinical assessment of the patient
- Take into account the type, nature and seriousness of offence(s)
- Attempt to balance patients' rights to treatment *and progression* with public protection measures
- Make reference to other risks the patient may present (through contact with Multi-Agency Public Protection Arrangements [MAPPA] agencies)
- Give additional scrutiny to, and senior manager oversight of, patients considered to be 'High Profile'

When might you need to contact MHCS

- Accepting a prison transfer
- Seeking to remit a patient back to prison
- Considering an application for s17 leave (you must apply to the Secretary of State)
- Discharge requests – conditionally or absolutely
- Post recall queries
- Hospital transfer (upgrade, level, downgrade)

Prison Transfers

- Transfer to hospital is by warrant: target is to issue warrant within 5 days of request. Warrant has validity of 14 days
- Has to be for treatment not for assessment – MHCS does do not seek to make own or disagree with clinical assessment, but will check recommendations for validity. Can transfer with or without restrictions **– usually with!**
- Primary concern is public protection so risk assessment looks at medical assessment plus security information (such as category, known offending history including index offence, prison intelligence)
- To a PICU – this is not unusual, however does appear to be increasing. We will continue to rely on the clinical assessments and gate keeping processes that suggest PICU is the right place for treatment – if we are not satisfied we can refuse.
- Overriding concern: to ensure that the patient is in a hospital with a level of security commensurate with their risk
- Identifies any High Profile patients – needing senior manager oversight

Remissions, 45A Transfers to Prison

Remissions

- Remission to prison is by warrant
- Risk assessment to ensure patient returns to suitably secure prison
- Target is 7 days from application to issue of warrant

S45A Transfer to Prison

- S45A – remission means the Court hospital direction lapses – patient is sent to prison to serve their sentence
- Risk assessment to ensure patient is sent to to suitably secure prison
- Target is 7 days

MHCS Decisions

Primary concern is public protection: MHCS consider the likelihood, the possible impact of any untoward incident and any ‘control measures’ in place to address risks

Decision makers consider:

- The patient’s mental disorder and the risks the patient presents
- Their behaviour in hospital
- Their compliance with medication and level of engagement with therapy and how successful this has been
- Security issues such as attempted absconds/escapes
- The index offence and any previous offending
- How they have used community leave (if applicable)
- What control measures are proposed – e.g escorting arrangements, contingency plans, MAPPA notification, victims

Challenges from MHCS perspective of more restricted patients coming into PICUs

There is increasing pressure upon prison places and upon hospital beds both in PICUs and in secure so many of the challenges faced are not new, but resourcing pressures mean they are more noticeable.

The biggest concern from our perspective is PICU staff may not have experience of the processes associated with restricted patients meaning they may grant leave etc. without first seeking SoS authority

We would be interested to know what you perceive as the biggest challenges of having restricted patients in PICU and how we can work together to address these

Discharge

Under s42(3), the SoS can absolutely or conditionally discharge a s37/41 patient into the community (or, for detained patients, lift the s41 Order)

Types of discharge

- Absolute: 28 day target from application to despatch of authorisation or refusal letter
- Conditional: 28 day target
- Lifting the Restriction Order
- Compassionate circumstances also considered but all decisions are made on same set of criteria as those for leave and transfers
- Victims – statutory consultation re conditions and removal of supervision

MHCS guidance notes, forms and contact details at:

All our guidance and stakeholder information can be found on Gov.UK including an introduction to the Restricted Patient System, MHCS contact details and guidance for clinicians on applying for s.17 leave or discharge etc.

https://www.gov.uk/government/collections/mentally-disordered-offenders

General Queries by telephone:

07812 760 274

07812 760 582

07812 760 523

07812 760 356

07812 760 230

Recall: 07812 760 248 (9:00 – 17:00)

Out of Hours: 0300 303 2079 (17:00 – 9:00am weekdays plus 24/7 weekends and bank holidays)

Email: MHCSMailbox@justice.gov.uk

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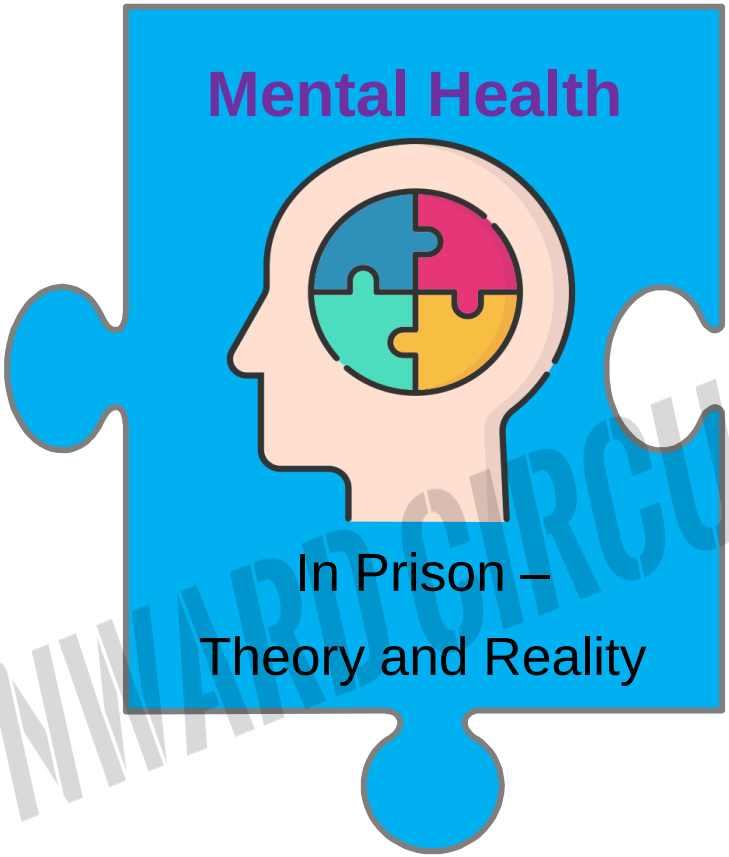


In Prison –

Theory and Reality

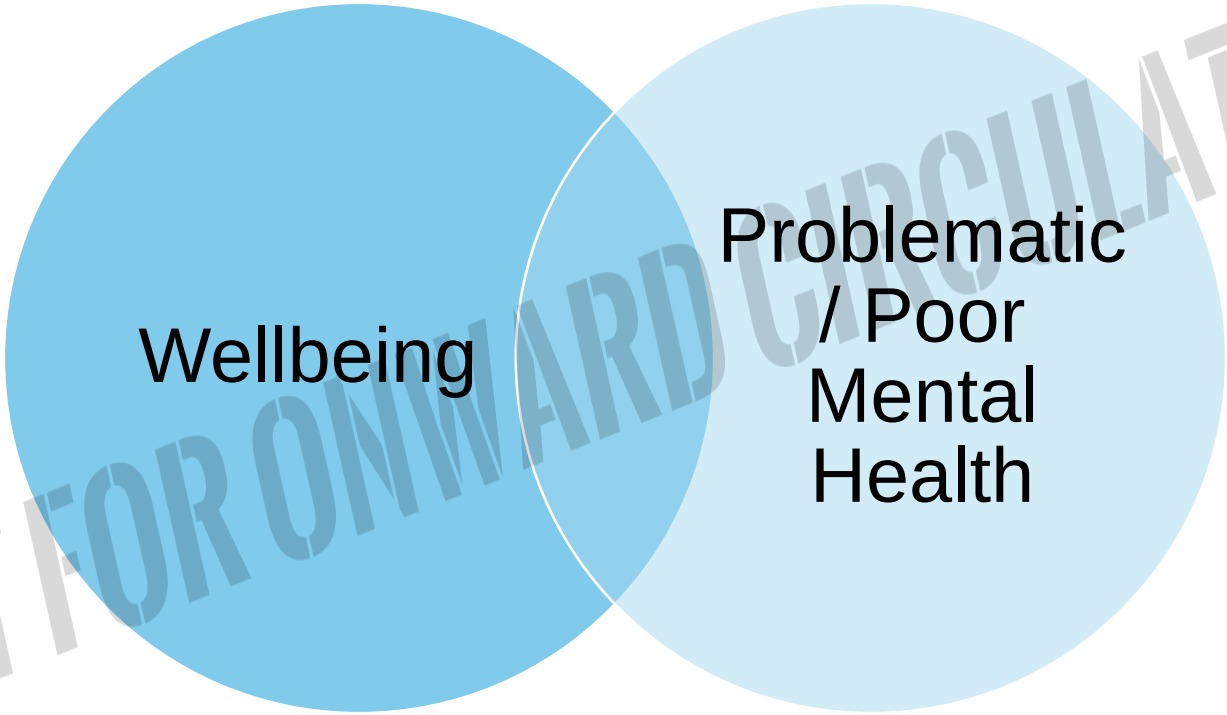
Some stats on Mental Health

- Research has found that two fifths (40%) of people facing multiple deprivation, including homelessness, addiction and being in contact with the criminal justice system, experienced poor mental health.
- Around a third (33%) of people in police custody
- just over a third (38%) of people on probation,
- nearly half (48%) of men and almost two-thirds of women (70%) in prison report experiencing mental ill-health.

Issues relating to mental health quite often overlap with substance misuse

- Nine out of ten (90%) prisoners have at least one mental health or substance misuse problem.

Mental Health – Who is responsible for what?



Learning Difficulties

Mental Health Conditions

Arrive in Custody with Current/Active Mental Health issue

Pre existing condition triggered due to external factors while in custody

Mental Health condition trigger by being in custody

Delivery of Mental Health Services

HM Prison & Probation Service

NHS England's national specification for prison mental healthcare outlines that all prisons should provide an integrated model, with self-help at the bottom step and specialist mental health services for those with marked mental illness at the top

service-specification-mental-health-for-prisons-in-england-2.pdf

How this feels in a Prison?

	Who is responsible for care?	What is the focus?	What do they do?
Step 5:	Inpatient care, crisis teams	Risk to life, severe self-neglect	Medication, combined treatments, ECT
Step 4:	Mental health specialists, including crisis teams	Treatment-resistant, recurrent, atypical and psychotic depression, and those at significant risk	Medication, complex psychological interventions, combined treatments
Step 3:	Primary care team, primary care mental health worker	Moderate or severe depression	Medication, psychological interventions, social support
Step 2:	Primary care team, primary care mental health worker	Mild depression	Watchful waiting, guided self-help, computerised CBT, exercise, brief psychological interventions
Step 1:	GP, practice nurse	Recognition	Assessment

Two or Too Different Models