



HM Prison &
Probation Service

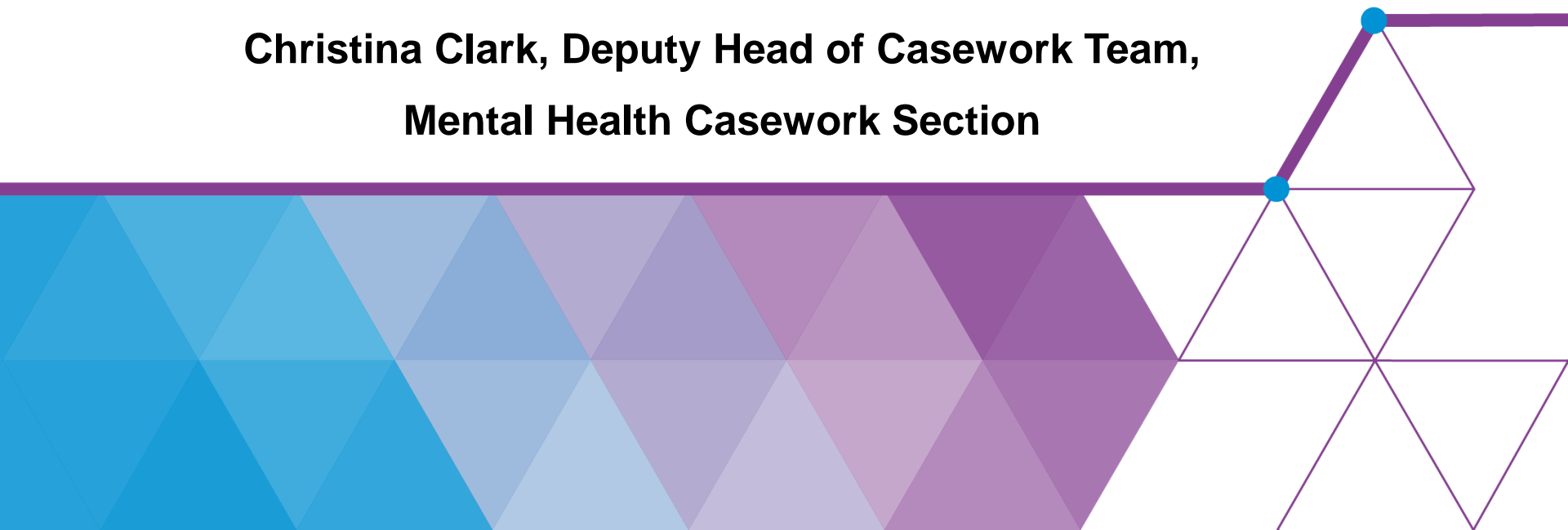


Ministry
of Justice

Mental Health Casework Section

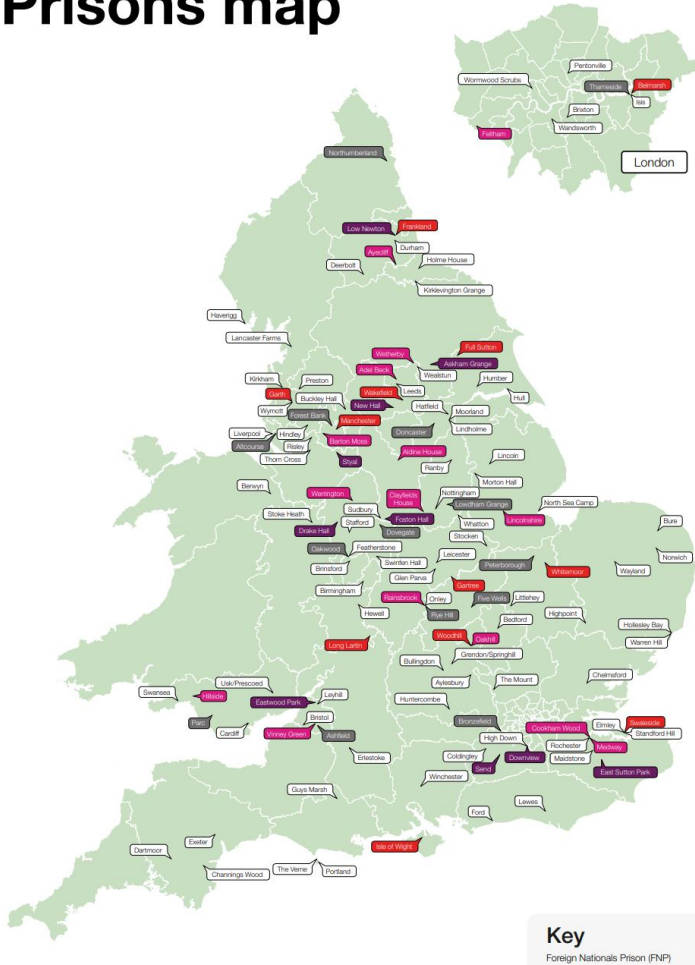
**Restricted Patients and the Role of the Secretary of State
for Justice**

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Mental Health Casework Section**



His Majesty's Prison and Probation Service (HMPPS)

Prisons map



122 prisons

7 probation areas

87,869 offenders (as of March 2024)

7,833 restricted patients (as of Dec 2023)

64 MHCS staff in HQ

Mental Health in-reach across estate

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 7,833 restricted patients (as of December 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 – a brief overview of the restricted patient system, who we are, what we do and how we can work together

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

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'

Numbers (31/12/23)

TOTAL DETAINED POPULATION	4,648
Prison Transfers:	1,298
Unsentenced/untried (s48)	384
After sentence (s47)	914
All (other) Legal Categories:	3350
Hospital Order with Restrictions (s37/41)	2,756
Tx from Scotland, NI, CI etc	17
Unfit to plead	394
Not Guilty by Reason of Insanity	91
Hospital and Limitation Direction (s45A)	92
TOTAL DISCHARGED POPULATION	3,185
TOTAL	7,833

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



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.



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, based on 2 medical recommendations – MHCS does 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 appears 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. NHS guidance says that MHCS is supposed to be consulted about whether PICUs are suitable but this does not appear to be happening. If we are not satisfied that PICUs can provide sufficient security, 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

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)

Challenges regarding restricted patients being admitted to PICUs

There is increasing pressure upon prison places and upon hospitals both in terms of PICUs and the adult secure mental health estate. 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 allow leave etc. without first seeking Secretary of State authority.

From your experience, we would be interested to know what are your biggest challenges of managing restricted patients in PICUs and ideas on how we can work together to address these.



Guidance notes, forms and contact details at:

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

General Queries by telephone: 02078205900

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