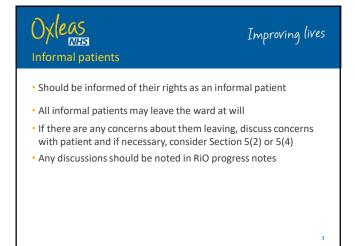


# • Understand responsibilities under the Act • Commonly used Sections • Consent to Treatment • Section 132 Rights information • Overview of Community Treatment Orders





#### Section 132 Rights

- Information must be given to patients as soon as practicable after detention. All attempts to give this information should be recorded in RiO.
- It is now possible for staff to document their discussions about rights prior to the relevant section being recorded in Rio:
  - > Access the section 132 on Rio via Case Record
  - > Select section from the drop-down list
  - > Tick 'To be reconciled' box
  - Select GO
- As a minimum, patients must be reminded about their rights at key points in their care. These include:

  - If their section changes
     When the rules about consent to treatment change (ie. they have received medication for 3 months or they have regained capacity to consent to medication)

  - There is a CPA review
     If their detention is renewed
     When they are discharged from section

4



# Improving lives

#### Section 136 - Police Powers

- Power for the police to remove a mentally disordered person in a public place to a place of safety
- Detention for up to 24 hours
- For the purpose of examination by registered medical practitioner and interview by an AMHP
- Can be transferred between two or more places of safety
- · If not mentally disordered, can be discharged immediately

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# Improving lives

# S135(1)

- · Warrant to Search for and to remove patients
- Applied for by AMHP at Magistrates Court
- Once executed lasts for up to 24 hours to allow for assessment

## S135(2)

- To return an AWOL patient
- Applied for by nursing staff at Magistrates Court
- Allows the police and team access to the premises named on the Warrant
- Once executed, lasts for up to 24 hours to allow for assessment



## Section 5(2) - Doctor's Holding Power

- Applies to informal in-patients (NOT CTO patients on the ward)
- Where the Registered Medical Practitioner/Approved Clinician in charge of the patient's treatment (or the nominated deputy) considers that an application for detention under the Act ought to be made
- Maximum duration of 72 hours including any time spent on S5(4)
- · Cannot be renewed, and another S5(2) should not follow
- No right to appeal to tribunal

Immediate referral to AMHP's (this includes weekends!)

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# Improving lives

## Section 5(4) - Nurses Holding Power

- If is not practicable to secure immediate attendance of a Medical Practitioner/Approved Clinician for purpose of furnishing a report under S5(2)
- Nurse of the prescribed class (Registered Mental Health Nurse/Learning Disability Nurse) deems that a patient is suffering from a mental disorder to such a degree that it is necessary for their health, safety or for protection of others, that they are prevented from leaving hospital
- Duration of up to 6 hours
- Completion of Form H2
- Not renewable but Doctor to assess for a S5(2)

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# Improving lives

• In what circumstances would you consider the use of a S5(4)?



## Section 5(4) - Nurses Holding Power

Expressed intentions

Likelihood of harm to self or others

Likelihood of violent behaviour

Evidence of disordered thinking

Current behaviour and any changes in their usual behaviour

Whether they have received any messages from relatives or friends

Date of special significance

Recent disturbances on the ward

Relevant involvement of other patients

History of unpredictability or impulsiveness

Any formal risk assessments

Any other relevant information from other members of MDT

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# Improving lives

#### Quick Quiz.

- How long does section 5(2) last?
- · Who can implement section 5(4)?
- What is the purpose of section 136?
- If a patient is AWOL from the ward, which type of Warrant would you need?

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# Improving lives

#### Section 2 - Admission for Assessment

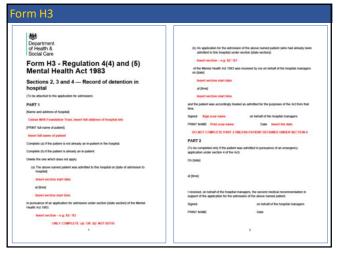
- Application by Approved Mental Health Professional (AMHP) Form A2 or Nearest Relative
- Form H3 to be completed by Nursing Team
  - Lasts for up to 28 days

  - Lasts for up to 26 days
    For assessment but can be treated
    Not renewable, but can be extended if Nearest Relative is displaced (see next slide)
    Should not be followed by another Section 2, Section 4 or Section 5(2)

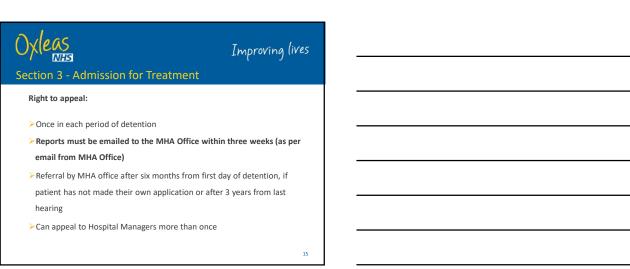
#### Right to appeal

- > Within the first 14 days hearing will be listed within 1 week of the application
- > Reports must be emailed to the MHA Office 48 hours before the tribunal date

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# Nurse Responsibilities

#### Tribunals:

- Assist patients in completing tribunal application forms
- Explain what happens at a Tribunal
- Reports must be submitted to the MHA Office within the specified time frame
- Use tribunal report template
- Upload report to RiO
- Compulsory for a Nurse to attend and remains with client throughout
- Must facilitate the Pre-Hearing Examination (PHE)
- Link for all Video hearings will be added to Calendar invites

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# Improving lives

# **Nurse Responsibilities**

#### Hospital Managers Hearings:

- As per tribunals, if contested
- Explain what happens in a hearing
- · Often no legal representation for patients
- · Go through reports with patient ahead of hearing
- Reports should be sent to: Oxl-tr.mhamhearings@nhs.net

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# Improving lives

#### Section 37 - Hospital Order without Restrictions

- The Court (Magistrates' or Crown Court) is satisfied on the written or oral evidence of two registered medical practitioners that the offender is suffering from Mental Disorder
- Lasts for six months. Can be renewed for a further six months then yearly. Effectively same as the section 3
- Section 58 (Consent to Treatment) applies after three months of continuous detention

#### Right to appeal:

- Cannot apply to Tribunal within the first 6 months of detention but can appeal to the Hospital Managers
- After 6 months, can apply once in each period of detention
- Referral after 3 years if no application made



## Section 37/41 - Hospital Order with Restrictions

- Continuous detention
- Section 58 (consent to treatment) applies after three months of continuous detention
- All Section 17 leave must be granted by the MOJ in advance of any leave being taken, unless in an  $\,$ Emergency when it be applied for retrospectively

#### Right to Appeal:

- Cannot apply for a Tribunal within the first 6 months of detention
- > Tribunal can grant a Conditional Discharge which allows the patient to leave hospital subject to conditions, they would be liable for recall
- Discharge can only be by tribunal or Ministry of Justice
- > Restrictions remain in place until an Absolute Discharge is granted

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# Improving lives

- Transfer of a prisoner suffering from mental disorder to a hospital which has agreed to admit them
- Discharge can only be granted by the MOJ or Tribunal. If the tribunal finds the patient is no longer suffering from a mental disorder, they will be returned to Prison to finish their sentence
- If the S47/49 Transfer Warrant has an Earliest Date of Release (EDR) restriction ends on this date and the S49 is removed. The patient becomes a Notional 37, the RC is then responsible for the patient and can order Discharge at any time. The Notional S37 then acts like a section 3 (renewable)
- Section 58 (consent to treatment) applies after three months of continuous detention
- If RC/MHRT believe that treatment is no longer required, the RC can recommend to the MOJ that the patient is transferred back to Prison  $\,$
- All S17 leave must be granted by the MOJ in advance of any leave being taken, unless in an Emergency when it can be applied for retrospectively

#### Right to Appeal:

· Can appeal to the tribunal within first six months – if successful patient will be returned to prison

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# Improving lives

- Enables an unsentenced prisoner to be transferred to hospital to receive treatment Admission must be within  $\underline{\text{14 days}}$  of the Warrant
- Section 58 (consent to treatment) applies after 3 months of continuous detention
- If RC/MHRT believe that treatment is no longer required, the RC can recommend to the MOJ that the patient is transferred back to Prison
- All Section 17 leave must be granted by the MOJ in advance of any leave being taken, unless in an Emergency when it can be applied for retrospectively

#### Right to Appeal:

Can appeal to the tribunal within first six months – if successful patient will be returned

# Oxleas

# Improving lives

#### Section 17 Leave

- Responsible Clinician may grant leave of absence from the hospital
- Restricted patient must have MOJ approval prior to RC approving any leave
- Certain forensic sections no leave permitted unless authorised by the Court ie. Section 35, 36, 38
- If leave is granted for more than seven days, consideration must be given to a Community Treatment Order (CTO) being made
- Copy must be given to client and anyone escorting them

ALL SECTION 17 LEAVE FORMS TO BE CROSSED THROUGH WHEN NO LONGER VALID

22

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# Improving lives

#### Quick Quiz..

- How long does Section 2 last?
- What is the time frame in which a Section 2 patient can apply to the tribunal?
- When are Section 2 tribunal reports due?
- Who is needed to complete a Section 2 or Section 3?
- How many times can a Section 3 be renewed?
- Can a Section 37/41 be renewed?
- What is the difference between Section 47/49 and Section 48/49?

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# Improving lives

#### Section 58 Consent to Treatment

- Medication can be given for first three months without patient consent
- At the end of the three-month period, one of the following must be in place:
  - $\blacktriangleright$  Form T2 Completed by the RC, if the patient has capacity & is consenting
  - Form T3 Completed by SOAD (Second Opinion Approved Doctor), if patient is lacking capacity/refusing
  - ➤ Section 62 Emergency Treatment form if waiting for the SOAD
- $\bullet\,$  If not on the form, it is an offence to medicate and your NMC Registration at risk



# **Nearest Relative Discharge**

- Email the NR request to MHA office immediately
- RC has 72 hours to consider barring the request on the grounds of dangerousness to self or others

#### If Barred:

- > The Hospital Managers will consider holding a hearing
- > If patient is detained under Section 3, the Nearest Relative can apply for a
- Nearest Relative cannot make a further request for discharge for six months

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# Improving lives

# **Community Treatment Orders - Section 17A**

- Only patients detained under Section 3, 37, 47, 48 (notional 37) are eligible
- Inpatient RC and AMHP complete form CTO1
- No age limit
- CTO rights to be explained before patient leaves ward

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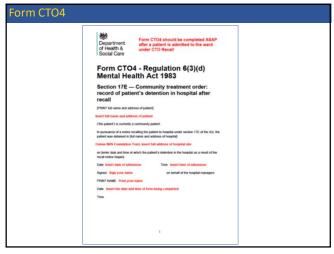


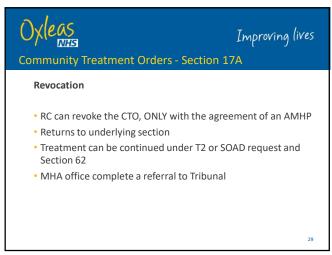
# Improving lives

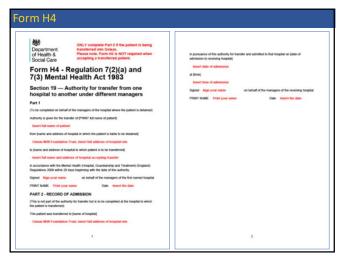
## **Community Treatment Orders - Section 17A**

- > Recalled by Responsible Clinician usually Community RC but can be any RC
- If the patient presents to the Hospital which is not named on the initial Recall notice, a fresh recall must be completed asap by an RC a copy of this should be emailed to the MHA office and a copy handed to the patient.
- > Complete Form CTO4 & refer to AMHP service if RC is going to revoke the CTO
- > Detain for up to 72 hours upon arrival at hospital
- > Can be treated (emergency)

- CTO is Revoked patient returns to being detained on their underlying section
   Recall is released. Patient remains informal under CTO
   Discharge off CTO







Computerry Detention	Purpose	Time Limits	Patients Appeal Rights
Section 35	Remand to hospital for a report on mental condition	28 days at a time up to maximum of 12 weeks	Application to court for termination of the remand
Section 36	Remand to hospital for treatment	28 days at a time up to maximum of 12 weeks	Application to court for termination of the remand
Section 37	Hospital Order for treatment	For up to 6 months, then can be renewed for 6 months, then every 12 months	Tribunal - After 6 months  Hospital Managers - anytime
Section 37/41	Hospital Order with Restriction	Without limit of time	Tribunal - After 6 months  Hospital Managers - anytime but no jurisdiction to discharge patient can only make recommendations to the Ministry of Justice for discharge
Section 38	Admission to hospital to determine if a hospital order is an appropriate disposal.	Initially 12 weeks, then 28-day periods up to maximum of 12 months.	Appeal against conviction or sentence. Court may terminate order.
Section 45A	Upon sentencing to imprisonment, Crown Court can direct immediate admission of the patient to hospital. Has same effect as section 37/41.	Restriction lasts until sentence expiry.	Appeal against conviction or sentence. Tribunal - After 6 months Hospital Managers - anytime
Section 47	Transfer to hospital of a sentenced prisoner in need of treatment (see 49 below).	As section 37 above	Tribunal - Immediately
Section 48	Transfer to hospital of a non-sentenced prisoner in urgent need of treatment (see 49 below).	As section 37 above or upon disposal of case	Tribunal - Immediately
Section 49	Restriction Direction which can be applied to patients on 47 or 48	You can be kept in hospital until the end of the section 47 or the date when you should be released from prison	

