



HM Prison &
Probation Service

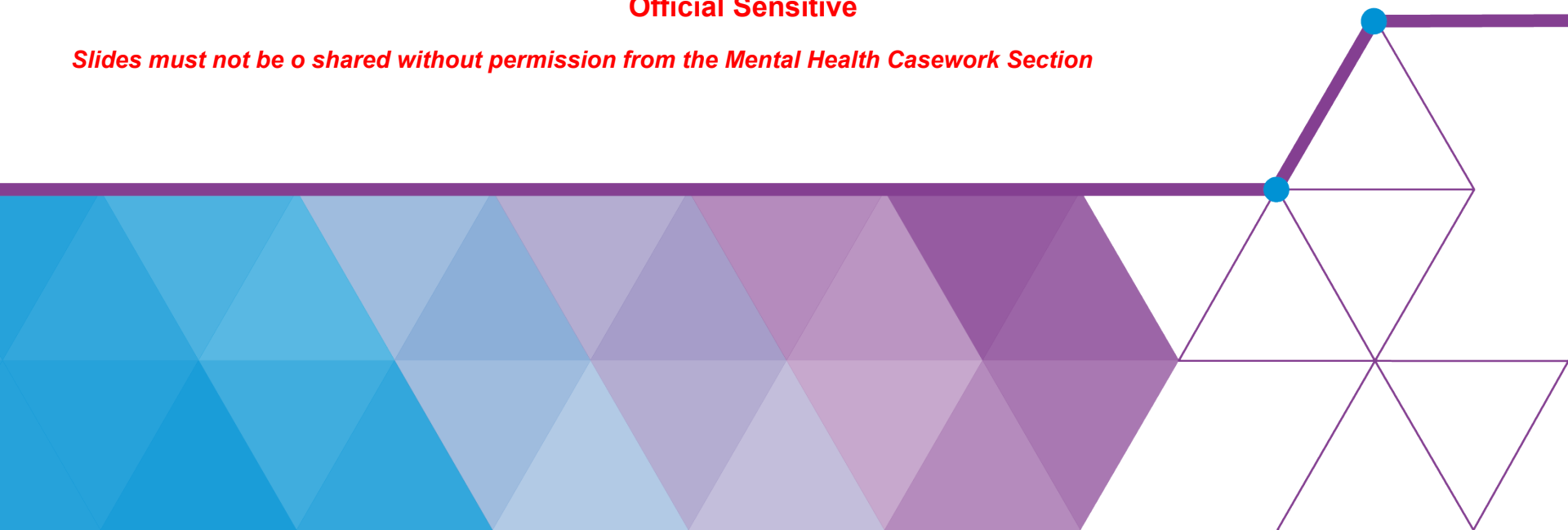


Ministry
of Justice

Presentation by the Mental Health Casework Section at the Ministry of Justice and the Joint Extremism Unit (JEXU) *for restricted patients in England and Wales*

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The Mental Health Casework Section (MHCS)

- ❑ The Mental Health Casework Section forms part of Her Majesty's Prison and Probation Service (HMPPS); HMPPS is an executive agency of the Ministry of Justice;
- ❑ MHCS makes decisions on Restricted Patient cases, on behalf of the Secretary of State for Justice. In these cases, patients are subject to special controls by the Secretary of State (for Justice) due to the risk they pose to the public;
- ❑ These controls include permission for community leave, transfer to another hospital, discharge and recall to hospital. MHCS takes these decisions on behalf of the Justice Secretary and in line with the Mental Health Act 1983;
- ❑ MHCS does not seek to make or disagree with clinical assessment
- ❑ MHCS' primary aim is public protection

The Mental Health Casework Section's Delegated Powers

- ❑ **MHCS has delegated power and makes decisions about restricted patient's access to the community** though the First Tier Tribunal can also decide upon a patient's discharge. For the Tribunal to discharge, it must be satisfied that the patient is no longer suffering for a mental disorder or from a mental disorder of a nature or degree which makes it appropriate for the patient to be liable to be detained in hospital for treatment.
- ❑ **S37/41** – patients diverted from prison by the sentencing court, sentenced to a hospital order under s37 of the Mental Health Act 1983 (MHA) with restrictions added under s41 of the MHA
- ❑ **S47/49 & 48/49** - prisoners who are transferred from prison (where they start off) to detention in hospital for treatment and whilst in hospital are managed the same as s37/41 patients but will be managed as prisoners in terms of their release, unless exceptional circumstances exist;
- ❑ **S45a** - those who at the time of sentencing were also directed by the court to be detained in hospital, initially for treatment due to their mental condition. For practical purposes they are treated as transferred prisoners but when well, will return to prison.

The Mental Health Casework Section

- ❑ MHCS works collaboratively with responsible clinicians and will balance the patient's right to treatment in the least restrictive environment necessary, against public protection;
- ❑ MHCS will refuse leave/transfers/discharge where the risk to the public is deemed too great;
- ❑ MHCS will recall s37/41 patients from the community if the the patient's mental health and risk to the public or themselves has increased to concerning levels, or for an urgent assessment of their mental health;
- ❑ MHCS can vary or remove conditions of discharge from s37/41 patients;
- ❑ MHCS are involved in the remission of a s47/49 or s48/49 patient to prison and issue the warrant;
- ❑ Some transferred prisoners (e.g. life sentenced prisoners) can only be released following a positive Parole Board decision for release. MHCS works closely with the Parole Board to ensure patients are not waiting lengthy periods of time between a positive tribunal decision and a Parole Board review

Working Collaboratively to Manage Risk, including Extremism / Terrorism Risk

What do we do regarding risk

- Responsible clinician has a patient centric approach to risk
- MHCS has a public protection focus on risk
- Together we ensure that the patient's risk to the public and themselves is managed safely but robustly whilst ensuring that the therapeutic relationship between patient and clinician is maintained. MHCS has a role in highlighting criminal justice risks, including information around extremism and/or terrorism risks. These could be historic or active concerns

How we manage that risk

- Understanding the boundaries between the Criminal Justice System and the Restricted Patient System and sharing clinical and public protection risk-based information to enable full and defensible risk-based assessments to be carried out;
- Understanding how we look at the same information from those different perspectives with the same goal in mind;

Our collaborative aim

- For the patient to remain mentally stable and live a pro-social life in the community following discharge from hospital or release from prison, whilst ensuring the public are protected.

The Joint Extremism Unit and the Mental Health Casework Section

- ❑ The Joint Extremism Unit is jointly run by Her Majesty's Prison and Probation Service (HMPPS) and the Home Office and is the strategic centre for all counter-terrorism work in HMPPS. It has oversight of delivery across the end-to-end offender management process, including probation;
- ❑ In response to the terrorist attacks in 2020, the Joint JEXU – MHCS Coordination and Notification System was formed - the JExU and MHCS Joint Co-ordination and Notification System allows for effective and appropriate information sharing between agencies and clinical teams;
- ❑ Through this system, key points in the patient's hospital journey are shared with counter-terrorism police and other security partners;
- ❑ Where there is an extremism concern, the RC will be provided with a Form of Words (FoW), put together by multi-disciplinary teams at HMPPS, for use as part of care-planning to help RCs stay alert to this element of risk and report back on how that risk is being managed. The FoW can be discussed with the patient.
- ❑ The FoW is not set up to replace statutory duties under Prevent but seeks to ensure that important information pertaining to risk around extremism is shared with those managing that risk, on a daily basis and as such it should be saved on the patient's electronic patient record
- ❑ Following the Jonathan Hall review [supervision-terrorism-and-terrorism-risk-offenders-review.pdf \(publishing.service.gov.uk\)](#) of Multi Agency Public Protection Arrangements (MAPPA) used to supervised terrorist and terrorism-risk offenders and the Government Response [mappa-govt-response.pdf \(publishing.service.gov.uk\)](#) MHCS made a commitment to attend MAPPA meetings in appropriate cases and it will be MHCS' extremism lead (Patricia O'Neill) who you will see at these meetings;



Case Example – Managing Terrorism Risks in Restricted Patients



- ❑ **“John”** - s37/41 hospital order for serious violent offence;
- ❑ **Conditionally discharged** and committed a terrorist offence which resulted in a prison sentence
- ❑ **As a result of the new offence John was recalled** on the s37/41 so dually detained
- ❑ **John served** much of the prison sentence in hospital following a transfers under s47/49 of the MHA and moved into licence period of the prison sentence whilst detained under the MHA
- ❑ **Granted unescorted s17 leave** as part of s37/41 order
- ❑ **Challenges** – it is standard practice to require a GPS tag for TACT offenders whilst on licence and probation wanted this to apply as a condition of John’s s17 leave. A GPS tag is a highly unusual condition to attach to s17 leave
- ❑ **MAPPA** involvement was significant
- ❑ **Successes** – checks of GPS / all agreed on way forward
- ❑ **CD for patient**

Number of Restricted Patients and those with a Counter-Terrorism Footprint

- ❑ As at 31 December 2020 there were **7,672** restricted patients including those on conditional discharge* ;
- ❑ **80** of these are classed as extremist active and 127 are extremist historic**;
- ❑ **12** of the 80 have been convicted under the Terrorism Act or are TACT connected**;
- ❑ **To safely manage** the risk this cohort may present, appropriate information sharing between agencies in relation to risk is essential;
- ❑ **Appropriate information sharing**, while being mindful of our duties under the DPA and GDPR, helps build a bigger picture on risk and helps us understand the link between issues such as alcohol and substance misuse, isolation, extremist behaviour and mental disorder;

*published statistics [Restricted Patients Statistical Bulletin 2020.pdf \(publishing.service.gov.uk\)](#)

**taken from management information, this does not represent published statistics and should not be represented as such.

Managing the Extremism Risk

- ❑ **MHCS and JEXU** cannot manage this risk without the cooperation of the responsible clinician and care-team;
- ❑ Where new concerns are raised regarding the patient's extremism behaviour, the responsible clinician should consider referring the patient to **Prevent** whilst also notifying MHCS;
- ❑ All patients **convicted under the Terrorism Act or TACT connected** will be actively managed under MAPPA (Multi-Agency Public Protection Arrangements);
- ❑ **An Extremism Risk Guidance 22+ (ERG22+)** will soon be available for responsible clinicians and MHCS to use as part of the risk assessing process though it is not for use in isolation. They are currently used for serving prisoners convicted under the Terrorism Act or are TACT connected and from 1 April 2022, will be available for restricted patients of that status. This relates to a very small number of patients;
- ❑ **An ERG is best described as a Structured Professional Judgement tool (SPJ)**; a formulation guided assessment of risk and need. It attempts to explain how and why someone behaves in a certain way, providing a narrative explanation that involves identifying personal and circumstantial factors that can be addressed through interventions and treatment;
- ❑ **ERGs are completed by qualified probation officers and registered psychologists** who have undergone specialist assessed training;



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Joint Extremism Unit

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Further information on **MHCS** and the restricted patient system can be found on gov.uk [Working with restricted patients - GOV.UK \(www.gov.uk\)](#)