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MISSING PERSON PROCEDURE - MENTAL HEALTH CLINICAL BOARD INPATIENT FACILITY OR A MISSING COMMUNITY PATIENT	
Introduction and Aim This procedure is to be followed when an inpatient from a mental health ward is missing, or a community patient subject to a community treatment order or conditional discharge who is deemed to be at high risk to themselves or others, is missing in the community.	
Objectives This document includes specific guidance on: <ul style="list-style-type: none"> • The return and readmission of patients who are: liable to be detained or recalled to hospital from a community treatment order (CTO) and conditional discharge but who are absent without leave (section 18). • Patients who are taken into custody or return within 28 days (section 21A) • Patients who are taken into custody or return after more than 28 days (section 21B). 	
Scope This procedure applies to all of our staff in all locations including those with honorary contracts	
Equality and Health Impact Assessment	As this is a procedural document an Equality Impact assessment has not been undertaken
Documents to read alongside this Procedure	Mental Health Act 1983 Code of Practice for Wales Mental Capacity Act 2005 Code of Practice. Procedure for people missing from premises in which the UHB is providing healthcare. Cardiff and Vale University Health Board Procedure for Missing Patients under 18 Years of Age. CARDIFF and Vale University Health Board Section 17 Leave Policy.
Approved by	Mental Health Clinical Board
Accountable Executive or Clinical Board Director	Clinical Board Director for Mental Health
Author(s)	Clinical Board Director for Mental Health Low Secure Services/ Mental Health Act Manager South Wales Police Force Advisor for Mental Health

Disclaimer

If the review date of this document has passed please ensure that the version you are using is the most up to date either by contacting the document author or the [Governance Directorate](#).

Version Number	Date of Review Approved	Date Published	Summary of Amendments
2	26/04/12	30/04/12	Complete revision
2.1	21/02/13	28/11/13	Appendix 6 MH service user abroad pathway added to the main document
3.0	11/06/15	22/3/16	None
4.0	17/10/2018	October 2018	CTO or community patient throughout the document. S135 & 136 amended to reflect changes to PACE
4.1	October 2021		THRIVE model updates to THRIVE+ Whitchurch Hospital removed in scenario/example and replaced with HYC/UHL
4.2	September 2022		Immediate Action- Page 7 inclusion of security.
4.3	06/09/2024	05/11/2024	Due diligence to support RCRP inserted – Page 8 Section 135(2) – amended to reflect three months to obtain warrant. Page 19 Section 136 – definition updated to reflect amendments in legislation.

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Preamble

If it is thought that a patient may try to abscond, the responsible clinician should consider whether an alternative approach to treatment can be found. For example, if a patient is detained in hospital and unless the protection of others is an issue the responsible clinician might consider allowing the patient leave of absence or discharge on to a community treatment order, rather than making the patient subject to increased supervision.”

Purpose

This procedure is to be followed when an inpatient from a mental health ward is missing, or a community patient subject to a community treatment order or conditional discharge who is deemed to be at high risk to themselves or others, is missing in the community.

This document includes specific guidance on:

- The return and readmission of patients who are: liable to be detained or recalled to hospital from a community treatment order (CTO) and conditional discharge but who are absent without leave (section 18).
- Patients who are taken into custody or return within 28 days (section 21A)
- Patients who are taken into custody or return after more than 28 days (section 21B).

Introduction

Police experience shows that the majority of people who go missing are found safe and well within hours. Police will have increased concerns in respect of missing persons with mental health needs due to their vulnerability or risk to self and/or others.

When reporting a missing patient to the police, staff **must** be able to give a clear and up to date description, risk assessment and other relevant important information about the missing patient (e.g. if the patient is subject to restrictions) to enable police resources to be appropriately directed to finding the patient. Ward staff to ensure that the leave book is completed and updated each time leave is granted in order to record an up-to-date description of the patient in accordance with the section 17 Leave Policy.

If the patient's location is known, the role of the police is to work with a suitably qualified and experienced mental health professional in returning the patient to hospital.

Wherever the police are asked for help in returning a patient who is subject to the Mental Health Act 1983, they must be informed of the time limit for taking him or her into custody. **See Appendix 1 for timescales.**

Criteria that determine when a missing patient/person is absent without leave from hospital/community treatment order, conditional discharge or guardianship:

- **Informal patients**
 - the patient has left hospital without informing staff and there is a cause for concern due to their mental state and risk to themselves and / or others.
 - the patient has failed to return to hospital when expected as agreed in their care plan.

- **Patients liable to be detained in a hospital**
 - the patient has left hospital without their absence being agreed by their RC (under section 17).
 - the patient has failed to return to hospital at the time stipulated in the conditions of their leave under s.17.
 - the patient is absent (without permission) from a place where they are required to live as a condition of their leave under s.17.
 - the patient has failed to return to the hospital when their s.17 leave has been revoked.

- **Un-sentenced prisoners**
 - S.48, Removal to hospital of an un-sentenced prisoner – if the person absconds, they can be forcibly returned to hospital by any authorised member of the hospital staff or the police.
 - S.48/49, Transfer of an un-sentenced prisoner to hospital and their detention there (s.48) with restrictions (s.49) applied by the Ministry of Justice - if the person is involved in criminal proceedings, a restriction order is mandatory but for other cases the Ministry of Justice will make an individual assessment of risk. If the person absconds they can be forcibly returned to hospital by any authorised member of hospital staff or the police. The Ministry of Justice must be informed immediately.

Under the circumstances described above the Court and MOJ MUST be informed of the patient's AWOL status. This is communicated by contacting the Courts directly or via the Criminal Justice Liaison and Diversion Service.

- **Community or conditionally discharged patients**
 - the patient fails to return to hospital when recalled
 - following recall, the patient absconds from the hospital

- **Patients subject to guardianship**

- the person is absent without permission from the place where they are required to live by their guardian.
- **Individuals subject to Section 135 or 136**
 - the person has absconded from the place of Safety at which they are being held. The agreed places of safety in the Cardiff and Vale locality are Hafan y Coed in Llandough Hospital, A&E (if deemed appropriate by the shift coordinator) and the Cardiff Bay custody suite (this is only under very exceptional circumstances).
- **Patients who abscond when being conveyed from one place to another where the conveyance is to enable:**
 - admission for assessment or treatment under the Act
 - the transfer of a patient liable to be detained between hospitals
 - the transfer of a patient received into guardianship to the community
 - the transfer of people to and between places of safety (sections 135 and 136)
 - the return of patients to hospital if they are liable to be detained and have been absent without leave
 - the return of patients to hospital if they are subject to a CTO, or conditional discharge and have been recalled to hospital
 - the transfer patients between hospital, court and prison.
- **Patients in the custody of an escort as a condition of section 17 leave or if an informal patient as an agreed condition of leave**
 - if the patient absconds from the custody of an escort stated as a condition of leave.
 - If the informal patient absconds from the custody of an escort as an agreed condition of leave

Immediate action to be taken

On admission, as much of the "Missing Person" form as possible must be completed on PARIS.

The Nurse in charge must ensure that all staff are familiar with this policy, and that all risks associated with the patient are discussed prior to escorting someone on leave and be satisfied that the escorting member of staff is confident to relay required information to the police, whilst maintaining surveillance of the patient at a safe distance.

All escorting staff should ensure that they are carrying a mobile phone when escorting a patient off the ward. Most staff will have their own mobile phone, they are also able to use these whilst escorting patients as long as they are aware of the correct process and who to ring. The Nurse in Charge should check whether a nurse going on escort has a phone with them. The case notes should clearly document all handover discussions that have taken place prior to leave, and all subsequent actions taken if a

patient has absconded.

If the patient absconds during escorted leave and if there is a known serious risk of harm to self or others, the escorting nurse should contact the Police immediately via 999 whilst attempting to keep the patient in eye sight as much as is possible and if safe to do so. This is in order to provide the Police with as much detail as possible as to the patient's description and whereabouts. Following this, the escorting nurse should contact the Shift Co-Ordinator to report and escalate. The escorting staff should continue to attempt to keep the patient within eye sight for as long as possible until either:

- They are no longer within eyesight
- It becomes unsafe to continue
- The patient has been safely secured via the Police or has safely returned to hospital

If a patient is missing from hospital or the community it is essential that the occurrence is reported immediately to the Shift Co-Ordinator/ Senior Nurse to ensure that prompt action is taken - do not delay completing the form whilst making this report.

If a patient is missing from the ward, or has absconded from a staff member, and is no longer in eyesight, the Shift Co-Ordinator/Senior Nurse should ensure that **due diligence** is conducted as follows:

- Contact security (or delegate someone to do so) and provide them with a description of the patient for them to check the security cameras within the site / grounds. This will help in either locating the patient if they are no longer within eyesight or provide some clarity as to the direction the patient was travelling.
- If the patient is in possession of a personal mobile phone attempt to make contact to ascertain location and encourage a return to hospital
- Conduct a foot patrol of the hospital grounds
- Ask other inpatients if they have any information of the persons whereabouts
- Contact relatives/associates to gather information
- Check persons residence and other relevant place

Escorting staff can apply safe holds within the hospital grounds to walk the patient back to the appropriate place, providing there is enough staff present to manage this safely. This practice does not apply outside of the hospital grounds. However, de-escalation techniques can be applied to encourage the patient to return whilst following at a safe distance, keeping the patient in eyesight to keep the Police informed.

The Shift Co-Ordinator/Senior Nurse must determine the level of risk using the following criteria to ensure that the appropriate action is taken and whether police intervention is required for attending or information sharing (any expectations or actions from any party involved in sharing of information must be clearly documented

in the patient record as this ensures excellent joint working standards – Police Liaison Meetings may be the most appropriate forum for this to occur).

If police intervention is required, the “Missing Person” form must be **fully completed** by ward staff before contacting the police so that the correct information is available to the call handler.

A formal Risk Assessment must be undertaken and recorded on PARIS.

The Mental Health Act Manager must be informed at the earliest opportunity via the Mental Health Act office if a detained patient is absent without leave and upon their return to hospital. This is to ensure that any Mental Health Review Tribunal or Managers’ hearing arrangements are adjusted and that there is compliance with section 21B if the patient has been absent for more than 28 days.

Categories of missing patients

High Risk includes:

- all patients where the risk posed is immediate and there are substantial grounds for believing that the subject is in danger through their own vulnerability, or
- May have been the victim of a serious crime or the risk posed is immediate and there are substantial grounds for believing that the public is in danger.
- all patients who are subject to a section of the Mental Health Act, including a Community Treatment Order.

Police intervention is required. Staff will need to be prepared for this at the time of reporting the missing patient to the police. The “Missing Patient” form will have been completed fully by this stage and will be available to attending police officers to enable them to extract the relevant information (**appendix 2**).

NHS staff will be asked a series of questions by the police at this stage to enable them to make an appropriate risk assessment and decide on the most appropriate actions.

N.B. If a patient is detained under:

S.35, Remand to Hospital for Assessment, - the person cannot be granted leave without the express agreement of the remanding court but if they abscond, they may be arrested without warrant by any police officer (or other constable) and taken to the Court that remanded them which may or may not decide on an alternative.

- **S.36, Remand to Hospital for Treatment** - the person cannot be granted leave without the express agreement of the remanding Crown Court but if they abscond, they may be arrested without warrant by any police officer (or other constable) and taken to the Court that remanded them which may or may not

decide on an alternative.

- **S.37/41, Hospital Order with Restriction** - a Crown Court sentences a person to hospital under s.37 for treatment and in order to protect the public from serious harm, restrictions are applied to the s.37 using the power contained in section 41 to produce s.37/41. If the person absconds they can be forcibly returned to hospital by any authorised member of the hospital staff or the police. The Ministry of Justice must be informed immediately.
- **S.38, Interim Hospital Order** - the offender cannot be granted leave, but if they abscond from hospital where they are being detained or while being conveyed, they may be arrested without a warrant by a constable and brought before the court that made the order. The court may then decide on an alternative way of dealing with the offender.
- **S.47, Transfer to Hospital from Prison** – if the person absconds, they can be forcibly returned to hospital by any authorised member of the hospital staff or the police.

S.47/49, Transfer of a sentenced prisoner to hospital and their detention there (s.47) with restrictions (s.49) applied by the

Ministry of Justice - When considering the added application of a restriction order, the Ministry of Justice will consider a number of risk factors including the nature of the offence, the length of sentence and the risk of absconding. If the person absconds, they can be forcibly returned to hospital by any authorised member of hospital staff or by the police. The Ministry of Justice must be informed immediately.

S.48, Removal to hospital of un-sentenced prisoners – if the person absconds, they can be forcibly returned to hospital by any authorised member of the hospital staff or the police.

- **S.48/49, Transfer of an un-sentenced prisoner to hospital and their detention there (s.48) with restrictions (s.49) applied by the Ministry of Justice** - if the person is involved in criminal proceedings, a restriction order is mandatory but for other cases the Ministry of Justice will make an individual assessment of risk. If the person absconds they can be forcibly returned to hospital by any authorised member of hospital staff or the police. The Ministry of Justice must be informed immediately.
- **S.45A, Transfer of a sentenced prisoner from prison to hospital.** Rarely used – contact MHA Manager for further details if necessary.
- **S.41, Conditionally Discharged Patient** – if the person is required to live at specified premises, they need permission from the Ministry of Justice to move or take leave from this place. Failure to comply with the requirements of the order necessitates that the Ministry of Justice is informed and the person could then be recalled to hospital. Recall will be considered where it appears necessary for the protection of others from harm because of a combination of

the patient's mental disorder and behavior. This includes potential behavior where there is evidence that indicates the imminent likelihood of risk behaviors. If a decision has been made to recall the patient and the patient will not return to hospital willingly on being told of the recall, the police should be asked to assist. They should be provided with a copy of the recall warrant (N.B. there is no power of entry attached to a recall warrant).

If it is not possible to gain access to a patient who has been recalled, an application may be made to a magistrate under s.135 (2). Once recalled, until re-admitted to hospital, the patient will be treated as if absent without leave and can be taken into custody and taken to the hospital specified in the warrant.

- **Forensic Restriction Orders and the Ministry of Justice**

Restriction orders are applied when it is thought that a person requires extra supervision for the protection of the public. They are made either at the point of sentencing by a Crown Court or through the transfer of a prisoner to hospital by the Secretary of State for Justice. The restriction means that decisions concerning leave (authorised and unauthorised), discharge and transfer **MUST** involve the Ministry of Justice.

N.B. The Shift Co-ordinator/ Responsible Clinician or Duty Consultant **MUST** inform the Ministry of Justice as soon as practicable when a restricted patient is missing. In particular they will need to be informed:

- If the patient is in danger through their own vulnerability
- If the patient may be a victim of serious crime
- If the risk posed is immediate and there are substantial grounds for believing that the public is in danger.

The allocated Case Worker at the Ministry of Justice must be provided with regular updates.

- **Medium Risk includes:**

- The risk posed is likely to place the subject in danger or they are a threat to themselves or others

Police intervention is required. Staff will need to be prepared for this at the time of reporting the missing patient to the police; the "Missing Patient" form will have been completed fully at this stage and will be available to attending police officers to enable them to extract the relevant information (**appendix 2**).

NHS staff will be asked a series of questions by the police at this stage to enable them to make an appropriate risk assessment and decide on the most appropriate actions.

Timescales for Returning Missing Detained Patients:

For those subject to the Mental Health Act 1983 there are timescales set out in legislation for returning a missing patient. Detailed information is set out in Appendix 1.

Mental Health Patients who have Dis-engaged

There may be occasions when patients with mental health needs are causing concern for professionals caring for them. They may not be “missing” but may have disengaged from a previously agreed plan e.g. not answering the door to visiting staff/ not attending a planned appointment.

On these occasions it would seem unnecessary to immediately instigate the “Procedure in the Event of a Missing Patient” but it would be pertinent for attempts to be made by the involved care team to sight the patient.

If health staff have sufficient concern for a patient’s health and have made all reasonable attempts^[1] to make contact, but have been unable to do so, the police will then be asked to assist.

The request for assistance needs to be communicated clearly to the police in terms of what actions are required/ expected by NHS staff. Staff will provide police with details of the reason for the concern and what they would like the police to do in the event of them contacting the patient.^[1]

Publicity

All requests made by the media for information must be directed through the Silver on Call for Cardiff and Vale University Health Board.

Procedure to be Applied in the Event of a Missing Inpatient

When a patient is found to be missing the following procedure must be followed:

- **Communication with Relatives/Carers**

When a member of staff discovers that a patient is missing, the Nurse in Charge of the ward must be notified immediately and will confirm the identity of the missing patient.

The Nurse in Charge of the ward must then contact the Shift Co-ordinator/ Senior Nurse with details and description of the missing patient.

The Nurse in Charge of the ward must inform an **informal inpatient’s next of kin/ relatives**, subject to the normal conditions for involving relatives.

There may be cases where, although police help is not needed, a patient’s history makes it desirable to inform them that he or she is absent without leave in the area.

In the case of a **detained/ community patient** the **nearest relative** is not necessarily the same person as the next of kin (the next of kin has no powers under

the Mental Health Act 1983 unless they are also the nearest relative).

Where a detained or community patient is missing for more than a few hours, their nearest relative should normally be informed (if they have not been already) subject to the normal considerations for involving nearest relatives. They should be kept fully informed of the situation, outcomes of searches etc.

If a patient has a preferred next of kin who is not the nearest relative, that person should also be informed.

- **Determining the Level of Risk**

When a member of staff discovers that a patient is missing, the Nurse in Charge/Shift Co-ordinator must be notified immediately and must confirm the identity of the missing person.

The Nurse in Charge/Shift Co-ordinator will determine the level of risk based on the up to date risk assessment and decide which category relates to the missing patient.

It is the responsibility of the Shift Co-ordinator/ Senior Nurse to inform the Senior Manager on Call of all the relevant and circumstantial details of the missing patient.

The Police, Local Social Services Authority, Community Mental Health Team and other involved agencies should also be informed accordingly.

Before contacting the police, the Nurse in Charge/ Shift Co-ordinator will check that the "Missing Person" form has been fully completed.

The Police should also be informed of the category of risk that the care team have applied to the missing patient and the rationale behind that decision. This will help inform their risk assessment (**Appendix 2**).

A fully completed copy of the "Missing Person" form must be given to the Police if they become involved.

For patients who abscond from section 17 authorised escorted leave, escorting staff must contact the police immediately via 999 giving the location from where the patient absconded, the current location of the patient (if known) and any further appropriate risk information.

In these cases, the Nurse in Charge must also be informed as soon as practicable.

- **Searching**

For **all categories** of patients, a search of the clinical area and a geographical search of the hospital buildings and grounds will be commenced. This will be co-ordinated by the Shift Co-ordinator and security staff.

Searchers will report back to the Shift Co-ordinator when they have completed the search of their designated area.

In the case of **High-Risk patients**, if the initial search proves unsuccessful, the police will become responsible for coordinating the search.

Detailed information about the search carried out so far will need to be given to the police i.e. area searched, by whom and when etc.

The police may require additional information concerning the Mental Health Act from reporting staff or the Mental Health Act Manager during normal working hours.

- **Return Interview/ Meeting Debrief**

Management of the return of an individual reported missing to the police is an important part of the missing person investigation. Return interviews can be beneficial to all professionals involved in the individual's care. Information gathered may help professionals to understand the reason why the person went missing and therefore act to prevent further "missing" episodes.

The information gathered from the return interview should be used to develop a multi-agency strategy meeting where the following criteria are met:

- Missing on three or more occasions in a 12-month period
- Missing for more than 7 days
- An isolated incident that gives cause for concern.

A first strategy meeting must be held within 7 working days of the return interview/alert.

The purpose of the strategy meeting will be:

1. To share information
2. To consider issues relating to the referral and the level of risk
3. To decide on a course of action.

The meeting will be attended by the ward manager or deputy ward manager responsible for the patient's care. Attendees will include all professionals involved in the individual's care and safeguarding; each agency will record information shared on their relevant recording system i.e. PARIS, Niche.

Actions that can be taken if the patient is located on the hospital site:

- **Patients currently detained under the Mental Health Act 1983**

Patients detained under the Mental Health Act 1983 can be returned to the ward against their wishes.

- **Informal inpatients receiving treatment for mental disorder**

The following options are available:

Section 5(4) - Nurse's Holding Power

If an informal inpatient (with or without capacity) receiving treatment for mental disorder is indicating that they wish to leave the hospital **and** there is an immediate need to prevent this but a doctor or approved clinician is not available at the time to complete a section 5(2), a nurse can complete a section 5(4). The decision to use this power is entirely at the discretion of the nurse who cannot be instructed to use section 5(4) by anyone else.

Section 5(4) can only be used if the patient is still in the hospital, it can't be used if the patient is on the hospital grounds. If section 5(4) has already been completed and the patient absconds, they can be returned within the 6-hour 5(4) time limit.

Section 5(2) - Doctor's and Approved Clinician's Holding Power

Section 5(2) may only be used to prevent a patient from leaving the hospital if the following legal criteria are met:

- the patient is an informal inpatient (with or without capacity) **and**
- it appears to a doctor or approved clinician in charge of the patient's treatment that an application ought to be made for section 2 or section 3, Mental Health Act 1983.

A section 5(2) can be used if the patient is still in the hospital or the grounds.

If section 5(2) has already been completed and the patient absconds, they can be returned with the 72-hour 5(2) time limit.

Sections 2, 3 or 4 if the grounds and criteria are met

Right to Independent Advocacy

Independent Advocacy is available to all patients detained under the longer-term sections of the Mental Health Act.

N.B. In relation to informal patients and patients subject to short term holding powers and sections i.e. sections 5(4), 5(2) and section 4, from 1st April 2012, the Mental Health (Wales) Measure 2010 requires that independent advocacy services (IMHA) are available to all inpatients who are receiving treatment for mental disorder, including those in non-mental health settings.

Staff must inform all such patients of this right.

Notifying the Police that patient reported as missing has been located on the hospital site

If the police have already been notified of a missing patient, they must be informed if and when the patient has been located on the hospital site.

If the Bronze Inspector determines it appropriate the police may visit in order to be sure the patient has been sighted.

Actions which may be taken if the patient is located in a public place outside the hospital site where the patient is an inpatient:

- **Patients currently detained under the Mental Health Act 1983**

Section 18 provides powers for the return of a detained patient and those recalled from a community treatment order or conditional discharge if they are absent without leave as long as it is within the legal timescale. (*Appendix 1*)

- **Informal patients**

If they are an informal inpatient who lacks capacity to make the decision to return to hospital, they can only be returned under section 135(1) or section 136, or by invoking section 2, section 3 or section 4 of the Mental Health Act 1983 if they are assessed as meeting the grounds and criteria.

If the police are involved and the legal requirements are met, they may implement section 136, Mental Health Act 1983 provided the person is found in a place to which the public has access.

Arrangements for patients who have been taken to another hospital outside of the University Health Board's catchment area

If a detained patient is located outside the University Health Board's catchment area but not at a place of safety in that area, the police from that area should be informed as well as the Local Social Services Authority and requested to invoke either section 135 or section 136 if appropriate.

If a detained patient is located outside the University Health Board's catchment area they may be taken to a hospital in that area as a temporary measure.

While arrangements are being made for the patient's return, the patient may only continue to be detained at the temporary hospital if authorised in writing by the Managers of the original detaining hospital; the authorisation can be dispatched electronically or by fax.

Arrangements must be made by the University Health Board or private provider to return the patient to the hospital in which they are liable to be detained.

The police have no responsibility to return the patient.

Arrangements for patients who are detained and have absconded from another hospital who are located in Cardiff and Vale

If a detained patient from another health board is located by the police in Cardiff and Vale outside the University Health Board's catchment area, the police on written agreement between Cardiff and Vale and the responsible health board can request

for the patient to be admitted to Cardiff and Vale Mental Health Inpatient Services if there is an available bed as a temporary measure while arrangements are made for the patient's return.

The patient may only continue to be detained at the temporary hospital if authorised in writing by the Managers of the original detaining hospital; the authorisation can be dispatched electronically or by fax.

Arrangements must be made by the responsible health board or private provider to return the patient to the hospital in which they are liable to be detained.

The police have no responsibility to return the patient to the responsible hospital, where the patient is detained.

Action which may be taken if the patient is located in private premises ^[2]

Sections 5 and 6 of the Mental Capacity Act 2005 do not confer on police officers the authority to remove persons to hospital or other places of safety for the purposes set out in sections 135 and 136, MHA 1983.

- **Section 135 - warrant to search for and remove patients**

^[2] (R (Sessay) v South London and Maudsley NHS Foundation Trust)

Section 135 provides for a magistrate to issue a warrant authorising a police officer to enter premises using force if necessary to remove a mentally disordered person to a place of safety for a period of up to 24 hours which can be extended by up to a further 12 hours in very limited circumstances* not exceeding 36 hours.

- **S.135(1) - Informal High Risk and Medium Risk patients**

If an informal inpatient is classified as Category A or B and is located in locked premises and is refusing to return to hospital, an application can be made by an Approved Mental Health Professional (AMHP) to a magistrate for issue of a section 135(1) warrant. This will authorise a police officer to enter locked premises (by force if necessary) on one occasion only and remove the person to a place of safety for assessment for a period of up to 24 hours which can be extended by up to a further 12 hours in very limited circumstances* not exceeding 36 hours.

The police officer **must** be accompanied by an AMHP and a doctor who is preferably section 12 approved or an Approved Clinician.

The warrant must be used within three months of being issued.

- **S.135(2) Detained High Risk and Medium Risk patients**

If a detained category A or B inpatient or community patient is missing/absent without leave and is located in locked premises refusing to return to hospital, an application can be made by an authorised person e.g. member of Mental Health Division staff or a police officer to a magistrate for issue of a section 135(2) warrant. This will authorise a police officer to enter locked premises (by force if necessary) on

one occasion only to look for the person and if found on the premises, to return them to the place where they are liable to be detained.

The police officer **may** be accompanied by a doctor or other authorised person from the hospital or local social services authority such as an AMHP.

The warrant must be used within three months of being issued.

Guidance

Obtaining a S135(2) Warrant for a Patient detained under section who is AWOL

1. Inform the Senior Nurse Manager or Deputy for the relevant area of the situation. They will 'own' the process and make decisions around who will complete each part of the process. This can on occasions be delegated to other staff members if appropriate to do so.
2. You know the address where the patient is, **and that the patient is refusing access (you MUST have ensured someone has visited and asked the patient for entry – if not the warrant will be refused).**
3. Phone the Police on 101 and inform them of your intentions to seek a warrant, provide any details they request.
4. Complete "Information in Support of Application for Warrant to enter premises and remove patient" form – to be found in the Shift Co-Ordinator's office in EAS, with a backup supply in CRHTT.
5. Scan and email the completed form to cvogwarrantinfor@hmcts.gsi.gov.uk
6. Phone the Magistrates Court on 02920 463040 within office hours, or out of hours call 01554 779972, explaining that you need a s135(2) warrant and the urgency.
7. Follow the instructions provided by the Legal Adviser over the phone, you will either need to take the paperwork to the Magistrates Court or to a Magistrates address if out of hours.
 - a. **Take your NHS ID with you**, as you will need to prove your identity.
 - b. Take a copy of the Section papers, you can get a copy from Paris;-
 - i. Open the Mental Health Act Module
 - ii. In the tree view on the left select the patient
 - iii. Go to the Additional Details tab
 - iv. Go to the Document Details section
 - v. Find the relevant papers relating to the current period of detention. These could be detention papers or renewal forms. Choose the latest.
 - vi. View the file and print it

- c. Take a blank "WARRANT TO SEARCH FOR AND REMOVE PATIENT" form with you – to be found in the Shift Co-Ordinator's Office in EAS, with a backup supply in CRHTT.
 - d. For Cardiff patients, we can use Cardiff Council PBA account number 0089328.
 - e. For Vale patients, staff must contact Vale Locality CMHT and request their PBA account number and authorization.
 - f. If using Cardiff or Vale PBA account number, this will be charged back to Cardiff & Vale Health Board.
8. When you have the warrant call the Police on 101 stating so. Arrange to meet them at the address.
 9. Arrange secure transport, to meet at the address at the **same time as the Police**.
 10. Arrange for the appropriate person/s are there to meet Police and execute warrant

Carbon copies are no longer provided as it is completed electronically. The warrant is sent via e-mail and a **SIGNED** (by the police) copy must be given to patient, police, staff (LA and Health) and MHA office.

Section 136 – Mentally disordered persons found in public places

Provides the power for a police officer to take a person they have found in any place, other than –

- a) Any house, flat or room where that person, or any other person, is living, or
- b) Any yard, garden, garage or outhouse that is used in connection with the house, flat or room, other than one that is also used in connection with one or more other houses, flats or rooms.

who appears to be suffering from mental disorder and is in need of care and control, to a place of safety for a period of assessment for up to 24 hours which can be extended by up to a further 12 hours in very limited circumstances* not exceeding 36 hours.

Within the South Wales Police area, it has been jointly agreed that a place of safety for the purpose of section 135 and section 136 in Cardiff and the Vale of Glamorgan will be Hafan y Coed in Llandough Hospital, A&E (if deemed appropriate by the shift coordinator) and the Cardiff Bay custody suite (this is only under very exceptional circumstances).

Section 4 - Admission for assessment in cases of emergency

If the necessity to detain is urgent then the s4 (emergency application for admission for assessment) procedure should be followed. Section 4 may be applied when staff need to place a person under section 2 but are unable to get two doctors as required by section 2 and the person needs urgent hospital admission for assessment.

If even this procedure is too slow the police can be asked to detain under section 136 if the patient is in a place to which the public has access.

Return of patients absent from hospitals in England and Wales

- **Northern Ireland**

Section 88 permits patients from England or Wales who are absent without leave from hospital or who have escaped from custody, to be taken into custody in Northern Ireland and returned to England or Wales.

- **Channel Islands and the Isle of Man**

The Channel Islands and the Isle of Man have powers which they can use to return patients from England and Wales.

- **Scotland**

Regulations in Scotland provide for the taking into custody of a person detained under a section of the Mental Health Act 1983 (including community-based orders) from England or Wales who is found in Scotland having absconded or failed to comply with the requirements of the order to which they are subject.

Detained patients who leave the UK without authority

The Act does not provide the power to require the return of a detained patient who has left the UK without authority.

It is up to the authorities where the patient has been taken into custody to use their powers to consider deporting the patient and to liaise with the University Health Board concerning any arrangements. The UK does not have any powers that can require authorities outside the UK to take such action.

The detaining authority in the UK does not have powers of custody over a patient until they re-enter the UK.

Extension of authority to detain when patients who have been absent without leave are returned to hospital

Sections 21A and 21B provide for the extension of the authority to detain when a patient is returned from being absent without leave. Where the patient has been returned to hospital after being absent without leave for more than 28 days, the Responsible Clinician must complete Form HO16.

For further information contact the Mental Health Act Office at Cardiff and Vale University Health Board.

Information to other areas

Communication with the police is an essential part of the process when a patient who is at risk goes missing. Information can be shared with the police under existing Vulnerable Adult legislation.

If the police have picked up the missing patient under section 136, they must inform

the Shift Co-ordinator ^[4] that the patient is en-route to the most appropriate place of safety.

Information regarding missing patients should not be shared with external organisations unless via the University Health Board silver on call/ shift co-ordinator. If any enquiries of this kind are received by wards/teams, they must not divulge any information to these agencies relating to missing patients.

^[4] Until April 2012 this will be communicated via the Operations Room, thereafter it will be undertaken by the Police Officer dealing with the Case directly.

References

Mental Health Act 1983 (2007)

Mental Health Act 1983 Code of Practice for Wales.

Mental Health Act 1983 Code of Practice for Wales Revised 2016

Mental Capacity Act 2005

Mental Capacity Act 2005 Code of Practice

Domestic Violence Crime and Victims Act 2004

The Mental Health Act Manual - Thirteenth Edition, Richard Jones M.A. (Kent and Brunel), C.Q.S.W., Honorary Professor of Law, Cardiff University

Guidance for the Implementation of changes to police powers and places of safety provisions in the Mental Health Act 1983

Police and Crime Act 2017

Appendix 1 - MHA 1983 - Detention Orders, Duration and Time Lapse for Retaking

Section	Purpose	Duration	Responsible for granting section 17 leave	Time lapse for retaking	Who can retake a patient within the timescale
Section 2	Admission for assessment	28 Days	Responsible Clinician	Cannot be retaken if section expires but if AWOL during the final week of detention, the s2 can be extended by a week from the date of recapture if recaptured before the expiry of s2.	Can be forcibly returned by: <ul style="list-style-type: none"> any authorised member of hospital staff including staff of a hospital where the patient is required to reside as a condition of their leave A person authorised in writing by the hospital managers AMHP Police
Section 3	Admission for treatment	6 months renewable	Responsible Clinician	<p>The later of the following two will be the relevant date:</p> <ul style="list-style-type: none"> up to 6 months after going AWOL <i>or:</i> until the expiry date of the section they are under. <p>If a person is AWOL when or during the week before the detention expires, the detention is extended for up to 1 week after the person's return to hospital in order to be assessed for continued detention.</p> <p>If this does not take place, the person's detention or CTO will automatically end.</p>	Can be forcibly returned by: <ul style="list-style-type: none"> any authorised member of hospital staff including staff of a hospital where the patient is required to reside as a condition of their leave a person authorised in writing by the hospital managers AMHP Police

Section 4	Admission for assessment in cases of emergency	Up to 72 hours can be converted to section 2	Does not apply	Cannot be retaken if section expires	Can be forcibly returned by: <ul style="list-style-type: none"> • any authorised member of hospital staff including staff of a hospital where the patient is required to reside as a condition of their leave • A person authorised in writing by the hospital managers • AMHP • the police
Section 5(2)	Doctors' holding power (report on hospital inpatient)	Up to 72 hours	Does not apply	Cannot be retaken if section expires	<ul style="list-style-type: none"> • Any authorised member of hospital staff • Police
Section 5(4)	Nurses' holding power	Up to 6 hours	Does not apply	Cannot be retaken if section expires	<ul style="list-style-type: none"> • Any authorised member of hospital staff • Police
Section 135(1)	Warrant to search for and remove a person	Up to 24 hours, can be extended by up to a further 12 hours (in very limited circumstances)	Does not apply	Cannot be retaken if section expires	<ul style="list-style-type: none"> • Any authorised member of hospital staff • Police

Section 136	Police power of arrest	Up to 24 hours, can be extended by up to a further 12 hours (in very limited circumstances)	Does not apply	Cannot be retaken if section expires	<ul style="list-style-type: none"> Any authorised member of hospital staff Police
Section 35	Remand to hospital for assessment	Up to 28 days renewable to a maximum of 12 weeks	Cannot be granted leave without the express agreement of the remanding court	If the person absconds, they can be arrested without a warrant and brought to the Crown Court or Magistrates' Court that made the order.	May be arrested without warrant by any police officer (or other constable) and taken to the Court that remanded them which may or may not decide on an alternative
Section 36	Remand to hospital for treatment	Up to 28 days renewable to a maximum of 12 weeks	Cannot be granted leave without the express agreement of the remanding court	If the person absconds, they can be arrested without a warrant and brought to the Crown Court or Magistrates' Court that made the order.	May be arrested without warrant by any police officer (or other constable) and taken to the Court that remanded them which may or may not decide on an alternative
Section 37	Hospital Order	6 months renewable	Responsible Clinician	<p>The later of the following two will be the relevant date:</p> <ul style="list-style-type: none"> up to 6 months after going AWOL <p>or:</p> <ul style="list-style-type: none"> until the expiry date of the section they are 	<p>Can be forcibly returned by:</p> <ul style="list-style-type: none"> any authorised member of hospital staff including staff of a hospital where the patient is required to reside as a condition of their leave a person authorised in writing by the hospital managers AMHP Police

				<p>under.</p> <p>If a person is AWOL when or during the week before the detention expires, the detention is extended for up to 1 week after the person's return to hospital in order to be assessed for continued detention.</p> <p>If this does not take place, the person's detention or CTO will automatically end.</p>	
Section 38	Interim Hospital Order	Initially for 12 weeks – can be renewed for up to Maximum of one year.	Cannot be granted leave	<p>If the person absconds, they can be arrested without a warrant and brought to the Crown Court or Magistrate's Court that made the order.</p>	<ul style="list-style-type: none"> • Police officer

Section 37/41	Hospital order with restrictions	As from 1 October 2007, all new restriction orders have no time period for expiry	Ministry of Justice	<p>Not subject to time limits.</p> <p>Can be forcibly returned to hospital for as long as their section is in force.</p> <p>Must inform Ministry of Justice immediately</p>	<ul style="list-style-type: none"> • Any authorised member of staff • The police • Must inform Ministry of Justice immediately
Section 41	<p>Conditional discharge</p> <p>Failure to comply with requirements of the order would lead to the Ministry of Justice being informed and the person could then be recalled to hospital</p> <p>Once recalled, until re- admitted to hospital, the patient will be treated as if absent without leave and can be taken into custody and taken to the hospital specified in the warrant</p>	<p>As long as the original Section 41 order which could be indefinite</p> <p>As from 1 October 2007, all new restriction orders have no time period for expiry</p>	Ministry of Justice	<p>Not subject to time limits</p> <p>Must inform Ministry of Justice immediately</p>	<ul style="list-style-type: none"> • If a patient will not return to hospital willingly upon recall, the police should be asked to assist. • They should be provided with a copy of the recall warrant. • If not possible to gain access to a recalled patient, an application may be made to a magistrate to issue a warrant under s.135 (2) authorising a police officer to forcibly enter a property to look for and remove a detained patient who is AWOL. • Must inform Ministry of Justice immediately.

Section 47	Transfer of a sentenced prisoner from prison to hospital	6 months renewable	Responsible Clinician	<p>The later of the following two will be the relevant date</p> <p>either: up to 6 months after going AWOL or: until the expiry date of the section they are under.</p> <p>If a person is retaken after more than 28 days of AWOL, the Act requires that they are assessed within 1 week of return to consider the need for continued detention. If this does not take place, the patient's detention or Community Treatment Order will automatically end.</p>	<p>Can be forcibly returned by:</p> <ul style="list-style-type: none"> • any authorised member of hospital staff including staff of a hospital where the patient is required to reside as a condition of their leave. • A person authorised in writing by the hospital managers. • AMHP • the police
Section 47/49	Transfer from prison to hospital with restrictions and their detention there	As from 1 October 2007, all new restriction orders have no time period for	Ministry of Justice	<p>Not subject to time limits.</p> <p>Can be forcibly returned to hospital for as long as their section is in force.</p> <p>Must inform the Ministry of Justice immediately</p>	<ul style="list-style-type: none"> • Any authorised member of the hospital staff • The police • Must inform the Ministry of Justice immediately

Section 48	Removal to hospital of unsentenced prisoners	Provides the power to detain a person until the court process is	Responsible Clinician	If the person absconds they can be forcibly returned to hospital.	<ul style="list-style-type: none"> Any authorised member of the hospital staff The police
Section 48/49	Removal to hospital of other prisoners with restrictions	The power to detain a person for a period of time as given by the	Ministry of Justice	<p>If the person absconds they can be forcibly returned to hospital.</p> <p>Must inform the Ministry of Justice immediately</p>	<ul style="list-style-type: none"> Any authorised member of the hospital staff The police Must inform the Ministry of Justice immediately
Section 7	Guardianship	6 months renewable	Does not apply	<p>The later of the following two will be the relevant date</p> <p>either: up to 6 months after going AWOL</p> <p>or: until the expiry date of the section they are under.</p>	<ul style="list-style-type: none"> Responsible local authority (social services) staff Police officer Any person authorised by the guardian or the local authority

				<p>If a person is retaken after more than 28 days of AWOL, the Act requires that they are assessed within 1 week of return to consider the need for continued detention. If this does not take place, the patient's detention or Community Treatment Order will automatically end.</p>	
Section 37	Guardianship order	6 months renewable	Does not apply	<p>The later of the following two will be the relevant date</p> <p>either: up to 6 months after going AWOL</p> <p>or: until the expiry date of the section they are under.</p> <p>If a person is retaken after more than 28 days of AWOL, the Act requires that they are assessed within 1 week of return to consider the need for continued detention. If this does not take place, the patient's detention or Community Treatment Order will automatically end.</p>	<p>Responsible local authority (social services) staff</p> <p>Police officer</p> <p>Any person authorised by the guardian or the local authority</p>

Section 45A	Hospital direction with limitation direction	Sentence fixed by law.	Ministry of Justice	If the person absconds they can be forcibly returned to hospital. Must inform the Ministry of Justice immediately	Any authorised member of the hospital staff The police Must inform the Ministry of Justice immediately
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* very limited circumstances are:

- These are that, because of the person's condition (physical or mental), it is not practicable to complete a Mental Health Act assessment within the 24 hour period. This might arise, for example, if the person is too mentally distressed, or is particularly intoxicated with alcohol or drugs and cannot cooperate with the assessment process. A delay in attendance by an Approved Mental Health Professional or medical practitioner is not a valid reason for extending detention.
- A decision to extend the detention period can only be taken by the responsible medical practitioner.

Missing Patients Information Form

Information to be provided by qualified member of staff making the missing person report

Name and any names the patient is known by		Attach photo here
Date of Birth	Age	
Legal status		
Location missing from		
Mobile number		
Does the MISPER have their phone with them?		
Does the MISPER use social media?		
Does the MISPER have access to funds?		
Home Address		
Description of person and clothing, including any marks, scars, tattoos and distinguishing features.		
Circumstances of going missing		
Details of any vehicles or form of transport used		

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CIRCUMSTANCES

Is the behavior out of character?

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**Has the person been missing before? If yes, what happened whilst they were missing?
Location found?**

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Information about any person who might have contact with the missing person – such as associates involved in previous incidents – estranged parents, boyfriends/girlfriends, etc

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Due Diligence – Action taken by staff to locate MISPER (tick box as appropriate)

Security contacted to check CCTV and advise on which direction the person was travelling	<input type="checkbox"/>
If in possession of personal mobile phone contact MISPER	<input type="checkbox"/>
Conduct a foot patrol of the hospital grounds	<input type="checkbox"/>
Ask other inpatients if they have any information of the persons whereabouts	<input type="checkbox"/>
Contact relatives/associates to gather information	<input type="checkbox"/>
Check persons residence and other relevant place	<input type="checkbox"/>

Any other relevant information relating to due diligence – explanation as to why checks could not be conducted, if applicable

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VULNERABILITY

Do you consider the missing person to be vulnerable? If yes – how?
Do they pose a danger to themselves or other people? Are they likely to self-harm or attempt suicide?
Are there any specific medical needs? E.g. need for essential medication and impact if not taken.
Are they currently at risk of sexual exploitation or is the person suspect or likely to be a victim of crime? if yes do you know the identity of the persons involved?
Are they likely to have travelled abroad?

RISK

Risk Assessment - Consider all of the questions below in order to structure the risk assessment and identify the current level of risk.
Is the missing patient subject to MAPPA or MARAC? If so provide all known details:
Has the missing patient been subject to a POVA or SWP PPN/VA1 form in the past? If so provide all known details:
Identified Level of Risk (tick box as appropriate)
<input type="checkbox"/> High
<input type="checkbox"/> Medium
<input type="checkbox"/> Low

Appendix 3 - Threat, Risk, Harm and Vulnerability Model from South Wales Police

THRIVE + PREVENTING, PROTECTING, HELPING

- T** A threat is a communicated or perceived intent to harm or loss on another person.
- H** Harm is to do or cause harm e.g to injure, damage or hurt -physically or psychologically.
- R** Risk is the likelihood of the event occurring.
- I** Investigation is the act or process of examining the crime, problem or situation and considering what action is required.
- V** Vulnerability is defined for the process of incident management as "a person is vulnerable if a result of their situation or circumstances , they are unable to take care or protect themselves, or others from harm or exploitation".
- E** Engagement is where organisations and individuals build a positive relationships for the benefit of all parties.
- +** Prevent is identifying opportunities to prevent further incidents occurring or a worsening of threat, risk and harm and allocating the most appropriate resource to intervene before further, more serious intervention is required.

MH patient (P) reported missing by CAVUHB from hospital or in community.

If the patient has absconded from S 17 escorted leave or from the agreed condition of escorted leave and is a known serious imminent risk to self or other - 999 police to be contacted by the escorting nurse whilst attempting to keep the patient within eyesight. A description of whereabouts and of clothing to be provided to the police. The escort to contact the shift coordinator to report and escalate

Shift coordinator (CAVUHB) conducts a formal Risk Assessment, records it on PARIS and decides which category relates to missing person.

High Risk – Deemed to be in immediate danger to themselves or others.

Medium Risk - All patients considered vulnerable or present a lesser degree/risk

Low Risk - Dis-engaged Patient e.g. CTO

- Shift Co-ordinator will contact Police and Local Social Services Authority to inform of risk category and rationale behind decision.
- CAVUHB will complete missing person report which will assist police to form their own Risk Assessment.
- In cases of restricted patients Ministry of Justice must be informed.

Due Diligence conducted by **CAVUHB** in order to locate patient

High Risk and Medium Risk - Police will commence enquiries to trace P and record patient as a P in accordance with the procedures. "missing persons, investigation management and recording".

Inpatient subject to s18, MHA located:

- Within hospital grounds and can be returned to ward against their wishes.
- Outside hospital grounds can be returned by a member of hospital staff or police constable.

Detained outside CAVUHB area at a place of safety:
CAVUHB responsibility to arrange for return of patient.

Informal patients located within hospital grounds:

- can be asked to return voluntarily
- or be returned against their wishes under s5(4)/5(2)/136 MHA
- or be returned under the MCA.

Inpatient located in Northern Ireland, Scotland or Channel Islands:
Can be returned to CAVUHB.

Detained patients who leave UK without authority:
No power to return to CAVUHB under the MHA – *see appendix 6*

Scenario 1

Male patient under section 2. Duration of order 28 days. He leaves Hospital and police find him at his home address he can only be retaken within duration of order.

Scenario 2

Patient detained under Section 2 (duration is 28 days) on 15/05/2023, expiry date is 11/06/2023. Patient goes AWOL on 08/06/2023, is found and brought back on 10/06/2023 – Section 2 is extended to 18/06/2023 for a MHA assessment to be conducted.

If patient was found on 12/06/2023, the Section 2 had already expired so they couldn't be brought back to hospital.

Scenario 3

Female patient under section 3. Duration of order 6 months. She leaves **Hafan y Coed or University Hospital Llandough** and police find her in City Centre. The date of the following two will be the relevant date, up to 6 months after going AWOL or until the expiry date of the section she is under.

Scenario 4

Patient detained under Section 3 (duration is 6 months) on 05/04/2023, expiry date is 04/10/2023. Patient goes AWOL on 20/08/2023.

The date on which they can be retaken is either, up to 6 months after the date of AWOL (20/02/2024) **OR** until the expiry date of the Section 3 (04/10/2023) – whichever is later (in this scenario, they can be retaken up until 20/02/2024).

If AWOL when the Section 3 expires, this is extended by 1 week in order for the RC to assess and renew if appropriate. The process of which differs depending whether the patient was brought back within 28 days or over 28 days.

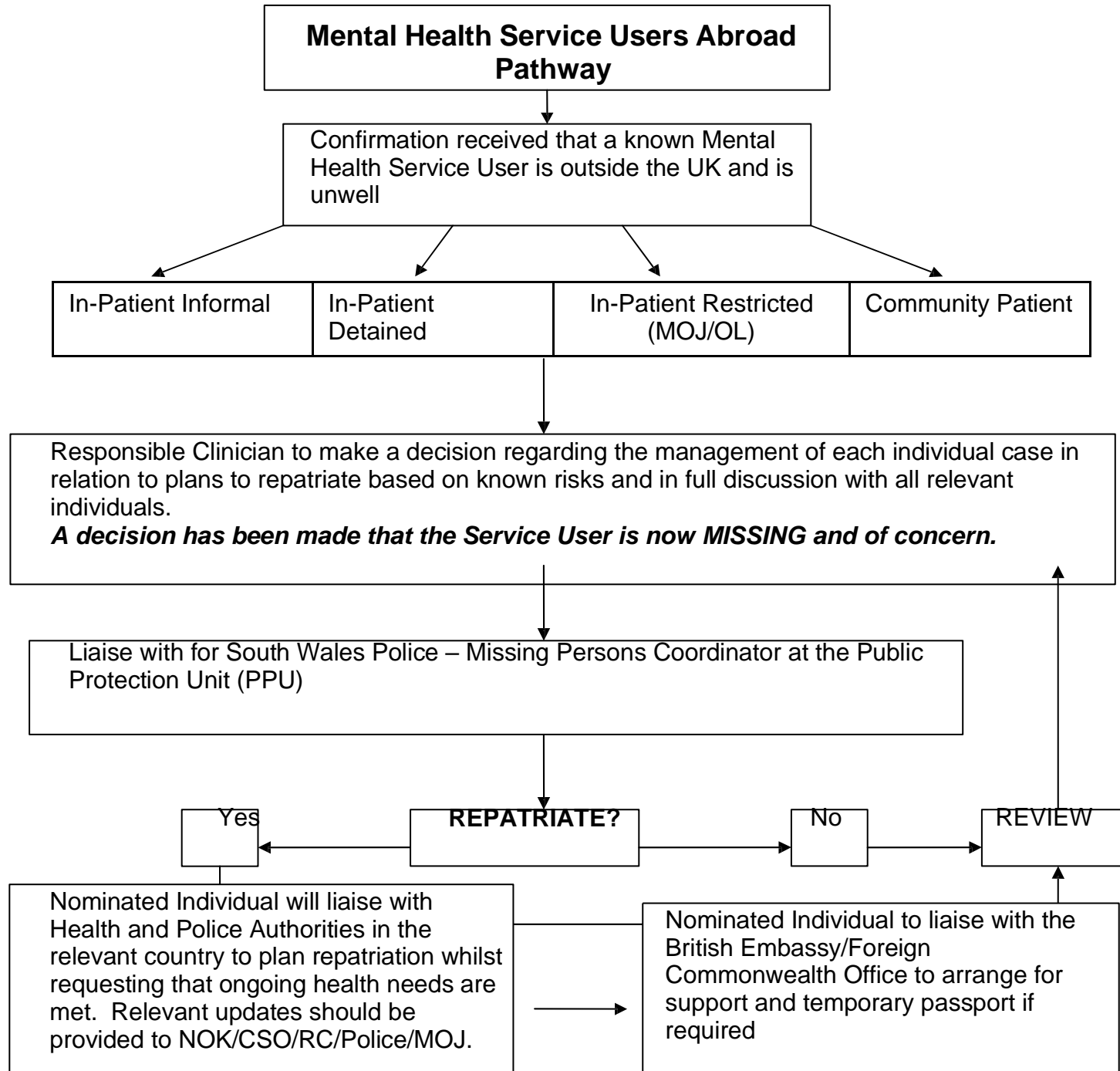
Scenario 5

Patient held under Section 5(2) (duration is 72hrs) on 02/05/2023 at 11:00, expiry is 05/05/2023 at 11:00. Patient goes AWOL on 03/05/2024 at 09:00.

Patient can be retaken up until expiry of Section 5(2), which is 05/05/2023 at 11:00.

Scenario 6

Male is on a Community Treatment Order and resides in Grangetown in his own home. CAVUHB staff have failed to gain a reply at his address for 7 days police are informed under a Dis-engaged patient and attend at his address at request of Health. Initially there is no reply and officers consider section 17 PACE to force entry. Male realises police are about to force entry and opens door. Male is fit and well. Hospital are informed and result no further action.



CONSIDERATION SHOULD BE GIVEN TO THE FOLLOWING:

- Have you reported to the Shift Coordinator/Integrated Manager/RC/ANP/Silver on Call (if out of hours)
- Have you confirmed the MHA status and sought advice from the MHA Office?
- What are the imminent risks to the individual and the public?
- Have you discussed with the Next of kin/CSO?
- Are the Police aware as per MISPER policy?
- Has a 'Missing Persons' report been completed?
- Is it necessary to liaise with the British Embassy in the relevant Country?
- Has the Ministry of Justice been informed for restricted patients?
- Has PARIS been updated with all relevant information accordingly?
- Has an SI Form been completed? – Is this necessary at this stage?
- Is there a potential for media interest?

Useful Contacts:

British Embassy –	http://uk.embassyhomepage.com
Foreign & Commonwealth Office –	020 7008 1500
Public Protection Unit (PPU) -	029 20527422