SURREY POLICE
With you, making Surrey safer

# Missing Persons from Healthcare
## Memorandum of understanding (MOU)

## Hospitals, Mental Health Units and Healthcare Providers in Surrey

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# Contents

# 1 Introduction

This Memorandum of understanding (MOU) has been agreed voluntarily by partners namely:

Hampshire & Isle of Wight
NHS Surrey Heartlands
NHS East Surrey
Ashford & St Peters Hospitals NHS Foundation Trust
Epsom & St Heliers University Hospitals NHS Trust
Frimley Park Hospital NHS Foundation Trust
Royal Surrey County NHS Foundation Trust
SASH Surrey and Sussex Healthcare NHS Trust
Surrey and Borders Partnership NHS Foundation Trust
Cygnet Health
Surrey Police

It relates to missing persons receiving treatment or healthcare in Surrey who may be at risk of going missing or is believed to be missing. The Surrey Safeguarding Adults Board (SSAB) expect all partners to implement this MOU and will assist agency senior managers to ensure the relevant staff have had sight of it.

# 2 Purpose

**2.1** The aim of this document is to provide guidance for partners so we may harness all available resources and create a sustainable process to respond to risk and harm in our community. It is a tool to help consider the practical steps necessary to ensure persons in Surrey are kept safe whilst receiving treatment and/or are resident in healthcare facilities.

This agreement provides healthcare professionals with clear guidelines as to the expected actions to be undertaken by them when a patient receiving treatment leaves the premises unexpectedly or does not return as expected/required, particularly for those who are not at immediate or serious risk.

**2.2** Surrey Police work in accordance with:

- College of Policing Authorised Professional Practice (APP) 'Missing Persons'.
- College of Policing Authorised Professional Practice (APP) 'AWOL Patients'.

**2.3** Partners work in accordance with government publications including:

- Care Act 2014

Please also refer to the Surrey County Council procedure

# 3 Intention

We must work together to ensure that:

- Patients receiving healthcare treatment are prevented from going missing
- Reduce the risk of harm should they go missing by creating an efficient response in line with that person's needs

- A coordinated response which makes use of each agencies resources when a person is reported as missing
- A focus on inter agency information sharing and agreed joined up working practices
- Effective early intervention and prevention strategy is implemented to reduce or stop repeat episodes
- Patients who are most vulnerable or at serious risk of repeat missing episodes require a health led assessment of their needs to assist a multi-agency response and inform an assessment of risk whilst missing
- Hospitals and health care establishments may also have their own local missing person policies, but these should all align with this multi-agency agreement.

# 4 The healthcare role and responsibilities

Basic measures

In the event that a patient is missing from hospital, mental health unit or care provider premises then **staff and providers need to make sufficient efforts to establish their whereabouts before telephoning police** for assistance.

Healthcare staff checks ought to include where possible at the discretion of effective decision makers and available resources at that moment in time (both of which can be subject to change at any moment):

- searching the hospital (this includes toilets, cafes, shops, kiosks and nearby bus shelters and car parks)
- contacting the patient by telephone (and where possible the next of kin)
- speaking to other staff and security in surrounding departments
- checking CCTV (if installed) to see if they have left the location altogether
- patients home address (an ambulance or community mental health nurse can undertake this check when the patient is at risk of significant harm or urgent medical treatment is required)*
- Consider other medical resources to establish whereabouts, like but not limited to an ambulance, other care professionals who can help wth the search of the hospital grounds or local staff in health teams). When did you check? Hospital have a duty to respond unless the risk is immediate.
- Professionals who decide patient risk, are not required to consult with the SECamb Team prior to a search.

*decision makers should effectively consider the likelihood of the patient returning home and assess the safety of that location. Returning to their home address, is often considered a protective factor for patients.

**4.1** Surrey Police will no longer consider a patient as a missing person until sufficient checks like those stated above have been undertaken by healthcare staff unless significant harm to and/or by the patient is immediately apparent and this information has been made available to police at the point of need.

Healthcare staff are required to provide the following to police at the point of need:

- appropriate and relevant personal information such as name, dob (or appropriate age), description, clothing worn and contact telephone number
- providing any available photograph (especially absent patients).

See Appendix A:Police question set.
See also section 4.3 Absent Without Leave (AWOL).

**4.2** Voluntary Patients

Patients have a legal right to leave the hospital unless they are detained under the Mental Health Act 1983 (MHA), the Mental Capacity Act 2005, or subject to a court order. Before healthcare staff within the hospital call police for assistance, it is expected that they will have made reasonable efforts to search the location including toilets, cafes, shops, kiosks and nearby bus shelters/car parks. They should also have contacted the patient by telephone, spoken to other staff/security in surrounding departments and checked their CCTV (if installed) to see if they have actually left the location altogether. There is no legal requirement for police forces to undertake welfare checks when requested to do so by another organisation. To decide about whether a welfare check is necessary and proportionate is to first establish the risk. However, if reasonable efforts are made and the patient has not yet being found by staff and the need for medical treatment is immediate or the likelihood of significant harm is apparent, **then police have a role in searching for them as a missing person**.

A voluntary patient i**s *not*** a missing person if:

- They cannot be accounted for by medical staff (and there is no significant or no immediate risk to them or others)
- They are just uncontactable i.e. mobile switched off/voicemail
- They have left knowing it is against medical advice, but have full capacity*
- They have left before assessment, but understand the likely risks and have full capacity*

*A person must be assumed to have capacity unless it is established that they lack capacity.

**4.3** Absent Without Leave (AWOL)

The definition of AWOL patient under Section 18(1) MHA 1983 is a person who is '*absent without permission from the place they are required to be'.* In other words a patient who:

- Has left a required location unexpectedly; or
- Failed to return to the location once a period of leave has expired; or
- Failed to return to the location on being recalled from leave.

Police assistance in returning a patient to hospital should not be considered a matter of routine. Reasonable efforts must be made by healthcare staff to locate the patient in all circumstances. If reasonable efforts are made and the patient has not yet been found and the need for medical treatment is immediate or the likelihood of significant harm is apparent, **then police have a role in searching for them as a missing person**. Effective communication between police and healthcare staff is vital in ensuring the safe return of vulnerable patients detained under the MHA.

Upon police attendance, three key documents should be made available to the officer which hold patient information key to assessing the risk for AWOL patients:

- A persons care plan
- Their monthly clinical update (list of medication and effects if not taken)
- Section 17 leave risk assessment (history of leave, leave plan and why leave was granted).

**4.4** Section 17 leave

A patient who has been granted leave under Section 17 of the MHA 1983 who has failed to return should not be considered a missing person until reasonable efforts have been made by healthcare staff (or those appointed to escort or accompany a patient whilst on leave), prior to calling police for assistance. They should have contacted the patient by telephone, contacted family and friends, or have checked other locations where they may be found i.e. the patient's home address. For incidents where risk of harm is not significant or immediate, means such as a local community mental health nurse or ambulance must be utilised in order to transport them back to the required location. The role of the police should only be to assist a suitably qualified and experienced mental health professional in returning the patient to hospital only when absolutely necessary. To decide about whether to assist in the return of a vulnerable patient it is necessary and proportionate to first establish the risk.

An AWOL patient detained under the MHA is ***not*** a missing person if:

- They cannot be accounted for (and there is no significant or no immediate risk to them or others)
- They are just uncontactable i.e. mobile switched off/voicemail
- Their location is known or suspected to be known but not confirmed by staff i.e. likely to be at home.

Section 18(1) states that a patient becomes AWOL if they:

- absent themself from the hospital without leave granted under section 17 MHA
- fail to return to the hospital at the expiration of any period of leave or on being recalled from leave
- absent themself without permission from any place where they are required to reside in accordance with conditions imposed on any grant of leave.

The term can also be applied to community treatment order (CTO) patients who have failed to return to hospital when recalled, or who subsequently abscond from hospital. In the context of a CTO, recall occurs when the patient's responsible clinician requires the patient to return to hospital.

Patients subject to guardianship are considered to be AWOL when they are absent without permission from the place they are required to live by their guardian.

**4.5** Healthcare legal responsibilities

Below are a list key responsibilities to consider regarding missing incidents. Please note that this list is not exhaustive.

See also Section 5 and 6.

- The duty of care for patients always sits with the hospital or health care establishment they are missing from.
- Staff should put in place measures to reduce the risk of patients leaving healthcare premises unexpectedly.
- Staff have legal responsibilities to restrain a person who is trying to leave, to enable assessment and treatment under section 2 and 3 of the MHA.
- When reporting a missing person, staff must provide evidence and justification for the level of risk selected.
- For incidents categorised as Green, it is care staff's responsibility to make all reasonable efforts to locate the missing person, without police assistance. Discharging them or extending their leave should be considered.
- If patients leave with medical equipment in place (e.g. cannula), a hospital RAG assessment must outline why the risk is either Red, Amber or Green and how

staff have already made efforts to de-escalate the situation themselves prior to a call to the police for emergency assistance. Assessments should answer whether the patient is required to be back at the hospital to have it removed or harm will be inflicted either accidentially or purposefully.

- A further decision should then be made as to whether the police are required urgently to assist and help de-escalate such situations, ideally a common sense approach each and every time rather than following a process which does nothing to further enhance the patients immediate safety or at all.
- When an AWOL patient is taken into custody by another organisation, the hospital from which the patient is missing from are responsible for arranging the transport/return of the patient.
- Police must only be asked to assist in returning a patient to hospital if absolutely necessary.
- Police do not have responsibility to transport/return a patient whose location is known. They should not be defined as missing if their location is known or suspected to be known.
- The responsibility for returning missing patients to hospitals or health care establishments always sits with the care provider, however, police can assist in returning patients where there is deemed to be a significant risk to the patient, health care staff, or public.
- Police do not have authority to detain a voluntary patient because they have absented themselves from care, or because of any perceived need that they should return.
- Lack of employed healthcare staff is not an acceptable reason for failing to carry out their responsibilities.

## 5 RAG Risk assessment

Surrey Police will not consider a patient as a missing person unless sufficient efforts have been undertaken by healthcare staff to establish the whereabouts of the patient, regardless of the level of risk. Surrey Police will not consider a patient whose risk has been categorised as GREEN unless circumstances change and the risk increases. Surrey Police will apply a Threat, Harm & Risk Assessment (THRIVE) to all persons graded as AMBER or RED.

| **RAG Risk Assessment** | | |
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| The risk posed can be EVIDENCED AS IMMEDIATE and there are substantial grounds for believing that the person is in danger through their own vulnerability, or there are substantial grounds for believing that the person presents a significant risk to the public. | The risk posed is likely to place the person in danger or they are a threat to themselves or others. | In these cases there is not thought to be any apparent risk or threat of danger to either the person or the public. |

# 6 The police role and responsibilities

**6.1** When a person is reported missing the police's primary responsibility is to safeguard the missing person. The police should seek to make people safe. A failure to investigate a report of a missing person properly may lead to:

- individuals being put at risk
- the loss of opportunities to reduce potential harm
- the police service being vulnerable to a legal challenge under either the Human Rights Act 1998 or the civil law relating to negligence
- reputational damage for the police force concerned.

**6.2** The European Convention on Human Rights (ECHR) places a positive obligation on police officers to take reasonable action, within their powers, to safeguard the rights of individuals who may be at risk.

The ECHR Articles which may be relevant to missing persons are:

- right to life (Article 2)
- right not to be subjected to torture or to inhuman or degrading treatment (Article 3)
- right to prohibition of slavery and forced labour (Article 4)
- right to respect for private and family life (Article 8)
- right to freedom of expression, including freedom to receive information (Article 10).

**6.3** When will the police get involved?
Paragraph 28.15 of the Mental Health Act 1983 indicates that their are three situations that should always and immediately be reported to the police by healthcare staff:

- Patients subject to Part III MHA – those connected to criminal proceedings, either before or after trial or conviction
- Patients who are dangerous
- Patients who are particularly at risk.

There is no obligation in law for hospital staff to report any other relevant matters to the police immediately or at all. If a patients location is known or suspected to be known, they should not be reported as missing to the police until sufficient efforts are made by healthcare staff to verify the whereabouts of the patient. Expectations around AWOL patients outside of the above three situations should be set out in a clear assessment and shared with police at the point of need. The care provider must conduct a health assessment of risk based on the information in section 2.2.1 MHA, prior to reporting them to police.

**6.4** Police powers
The majority of missing person searches are conducted outside i.e. within urban and rural locations. If a search of a person's home address is required police can only undertake this with the consent of the owner or occupier of the premises. However, when responding to a call at a home address, where a police officer has information to suggest there is an immediate risk to the life or limb of a person inside, then the officer has a power of entry under S.17 of the Police and Criminal Evidence Act (PACE). However, if there is no immediate risk to the life or limb of a person then police have no legal power to search or confirm their welfare (regardless of whether they are categorised as missing or not).

# 7 Returning an AWOL patient

**7.1** An AWOL patient to be re-detained and returned to the hospital by:

- an approved mental health professional (AMHP)
- anyone on the staff of the hospital
- a constable
- anyone authorised by hospital managers (authorisation must be in writing).

For incidents where risk of harm is not significant or immediate, means such as a local community mental health nurse or ambulance must be utilised in order to transport them back to the required location. The role of the police should only be to assist a suitably qualified and experienced mental health professional in returning the patient to hospital only when absolutely necessary.

**7.2** **Entry cannot be forced to premises for this purpose** and a warrant under section 135(2) MHA 1983 is required if consent to enter premises is not provided.

# 8 Herbert Protocol

8.1 The Herbert Protocol is a simple risk reduction tool to help search for people with Dementia who go missing. A family member, carer or close friend can fill in the form detailing essential information that could lead to them returning home safe, sooner. The form includes details of the missing person as last seen: this could include the clothing they were wearing, details of regular medication and information regarding their health and mental wellbeing. This form may help to provide accurate and up-to-date details to help officers locate the missing person sooner. To download the form, and familiarise yourself with what is required, please visit the Herbert Protocol page on the Surrey Police website.

8.2 Please print and display the below poster in healthcare waiting areas, toilets and kiosks so members of the public are made aware of what the protocol is and how the process can help. For more information please visit the Safe and Found online website.

The Herbert Protocol poster

# 9 Information sharing

9.1 On patient admission, consent should be obtained and recorded by healthcare staff for the patient's personal details to be shared with police should they be reported as a missing person. If consent is not provided, legal powers remain which can be used to share information in order to protect the person from harm.
See Article 8 of the European Convention on Human Rights (ECHR) and the Caldicott Guardian Workbook.

# 10 Appendix A: Police Question Set

**Opening question:**

1. What is the patient RAG assessment? (RED/AMBER/GREEN) (Please ask the caller to make this medical assessment available to officers when requested).
   - If GREEN:Please inform the caller that Surrey Police will not consider this a Missing Person unless circumstances change and the risk increases.
   - No RAG: Please inform the caller that Surrey Police cannot progress this call without their medical RAG Assessment, unless they can advise of any immediate or significant risk,

**Only continue if RAG assessed is AMBER or RED:**

2. Please describe reasoning for RAG Assessment i.e. threat to life, serious harm to self or others, what immediate health treatment is required?
3. Are they detained under the Mental Health Act? (If yes, details)
4. Has person been recalled from s17 leave or subject to a community treatment order? If yes, when was it served and how i.e. letter delivered by hand/post_
5. Are there any hospital/ court/ Depravation of Liberty/ other orders in place? (if yes, details)
6. Are they a voluntary patient? If yes, is the patient aware that staff are calling police? i.e. poster openly displayed 'Decided to leave')
7. What areas have you searched? i.e. toilets, café/ shop kiosk, grounds, CCTV footage, patients home address.
8. Contact attempts made with patient, family members, next of kin, social care worker i.e. mobile, landline, text message (unaccountable does not necessarily mean they are a missing person)
9. What measures are in place at the premises to mitigate risk i.e. security staff, staff alarm, door/ exit controls.

**Person Details**

10. Name of Patient
11. Date of birth
12. Gender
13. Description of person and clothing.
14. Why is the patient at hospital in the first place?
15. How long have they been there?
16. How did the patient arrive at the hospital? i.e. ambulance
17. Have they gone missing from the location before?
18. Do you suspect where they may have gone? (if yes, have any checks been made at/ with these locations?)
19. Did they tell anyone they intended to harm themselves or others? (if yes, when and who to)
20. If overdose is suspected, how long ago and what effect if not found
21. Do they have access to a vehicle? (if yes, details)
22. Do they have money/ bank cards? (if yes, details)
23. Name of designated clinician/ staff member in charge/ department responsible for individual (please obtaon a contact number)
24. Patient contact details held i.e. home address. Phone number/ social media (for individual/ family/ NOK/ associates etc.)

**Always state the following to the caller/ staff before ending the call:**

As a patient, duty of care remains with medical staff. Surrey Police will assess the circumstances and decide an appropriate response based on risk or vulnerability of the

patient. Surrey Police expect staff to continue searching the premises/ make efforts to locate the person and to notify us once their location is known.