

**ABSENT WITHOUT LEAVE (AWOL)
AND MISSING PATIENT POLICY
(Inpatient and Community Patients)**

The objective of this policy and procedures is to ensure that the key agencies involved when patients go missing from hospital, particularly the police and Leicestershire Partnership Trust, have an agreed policy to provide a co-ordinated response. The need is to be effective in reporting and finding missing patients, whilst at the same time, minimising unnecessary reporting and instances of patients repeatedly going missing.

Key Words:	AWOL Missing	
Version:	5	
Adopted by:	QAC	
Date Adopted:	December 2015	
Name of Author:	Vicky McDonnell	
Name of responsible Committee:	Patient Safety Group	
Date issued for publication:	March 2016	
Review date:	August 2019	
Expiry date:	1 March 2021	
Target audience:	All Clinical Staff	
Type of Policy	Clinical ✓	Non Clinical

Contents

Contents Page.....	2
Version Control.....	3
Equality Statement.....	3
Due Regard.....	4
Definitions that apply to this policy.....	4
THE POLICY	
1.0 Purpose of the Policy.....	5
2.0 Summary and Key Points	5
3.0 Introduction.....	5
4.0 Flowchart/Process Chart	5-7
5.0 Duties within the Organisation.....	8
6.0 Information.....	8-10
7.0 Risk Assessment.....	10-12
8.0 Procedure for Missing/AWOL/Absent Patient.....	12-14
9.0 Training.....	14
10.0 Monitoring Compliance and Effectiveness.....	14-15
11.0 Standards/Performance Indicators.....	15
12.0 References and Bibliography	16
REFERENCES AND ASSOCIATED DOCUMENTATION	
Appendix 1 Police Involvement & Section 135(2) Mental Health Act.....	17-20
Appendix 2 CQC Standards.....	21
Appendix 3 NHS Constitution Checklist.....	22
Appendix 4 Stakeholder and Consultation.....	23-24

Version Control and Summary of Changes

Version number	Date	Comments (description change and amendments)
2	March 2013	Amended MHA duties
3	April 2013	Comments received
4	April 2013	Final comments
5	December 2015	Policy thoroughly reviewed and extensively amended.

For further information contact:

**Trust Lead for Risk and Patient Safety
Leicestershire Partnership NHS Trust
Room 170, Penn Lloyd Building
County Hall
Glenfield
Leicester
LE3 8RE**

Equality Statement

Leicestershire Partnership NHS Trust (LPT) aims to design and implement policy documents that meet the diverse needs of our service, population and workforce, ensuring that none are placed at a disadvantage over others.

It takes into account the provisions of the Equality Act 2010 and promotes equal opportunities for all.

This document has been assessed to ensure that no one receives less favourable treatment on the protected characteristics of their age, disability, sex (gender), gender reassignment, sexual orientation, marriage and civil partnership, race, religion or belief, pregnancy and maternity.

In carrying out its functions, LPT must have due regard to the different needs of different protected equality groups in their area.

This applies to all the activities for which LPT is responsible, including policy development and review.

Due Regard

This policy has been screened in relation to paying due regard to the general duty of the Equality Act 2012 to eliminate unlawful discrimination, harassment, victimisation; advance equality of opportunity and foster good relations.

This is evidenced by the references and consideration given throughout the policy to how staff can ensure that patients/service users are actively engaged in their care and treatment, and the alternative communication methods that should be employed to take account of those with different needs from across all protected characteristics.

There is no likely adverse impact on staff or patient/service users from this policy.

Definitions that apply to this Policy

Missing Patient	An informal inpatient or a community patient whose whereabouts are unknown and there is cause for concern
AWOL	Refers to a patient who is detained or liable to be detained, who leaves hospital without permission or fails to return when requested to do so. See section 3.2.1
Informal	A patient who is being treated for a mental disorder but is not detained under the mental health act (also known as voluntary patient).
Due Regard	Having due regard for advancing equality involves: <ul style="list-style-type: none">• Removing or minimising disadvantages suffered by people due to their protected characteristics.• Taking steps to meet the needs of people from protected groups where these are different from the needs of other people.• Encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.
Absent	A person not at a place where they are expected or required to be.

1.0. Purpose of the Policy

The objective of this policy and procedures is to ensure that the key agencies involved when patients go missing from hospital, particularly the police and Leicestershire Partnership Trust, have an agreed policy to provide a co-ordinated response. The need is to be effective in reporting and finding missing patients, whilst at the same time, minimising unnecessary reporting and instances of patients repeatedly going missing. The police response is included at Appendix 6.

2.0. Summary and Key Points

This policy describes the roles and responsibilities of LPT staff in the effective management of missing patients. The policy also describes the role of the police working in partnership with LPT staff.

3.0. Introduction

3.1 Leicestershire Partnership Trust (referred to thereafter in this document as ‘the Trust’) recognises that appropriate observation and supervision of patients is paramount to their care. However, despite these arrangements patients do sometimes go missing or AWOL (Absent without Leave), and it is important that there is no delay in implementing the following procedure to minimise any risks to the patient and others. A copy of this policy is to be readily available at all Trust establishments.

3.2 This policy provides guidance and procedures to be followed in two specific areas (as defined above), namely when patients are:

- absent without leave as defined in the MHA 1983 and (2007)
- Identified to be missing.

4.0 Flowchart/Process

The Flowchart and the process for reporting for the Missing patient & AWOL Policy will follow in the next page.

Trust Missing Patient & AWOL Policy – Flow Diagram

Patient is found to be missing or AWOL from hospital

Nurse in Charge establish risk category (Low, Medium or High).

For all categories use missing/AWOL section on safeguard and keep record of events in Patients notes. Any reasons not to take any of the following actions must be recorded in the notes. The Ward report should also be completed.

MHA/DOLs team to be informed where appropriate

- Carry out thorough search of ward and immediate area outside ward.
- Inform duty manager
- Contact next of kin, any other known contacts
- Establish when last seen and what clothing worn/identifying features
- Keep relevant parties briefed on progress
- If patient at known location assess actions required
- Contact Police
- Record details of search and progress in patients notes
- Complete incident form.
- Inform patient's consultant or duty consultant
- Report as SI where appropriate

Whilst patient remains Missing/AWOL

The team must review progress on the patient and a nominated person keep in contact with relevant parties at least on a daily basis

Patient returns from Missing/AWOL

All risk categories: Inform all relevant parties. Review Risk and level of observation, complete Missing/AWOL section on Safeguard and send/Fax a copy to the locality Mental Health Act Administrator.

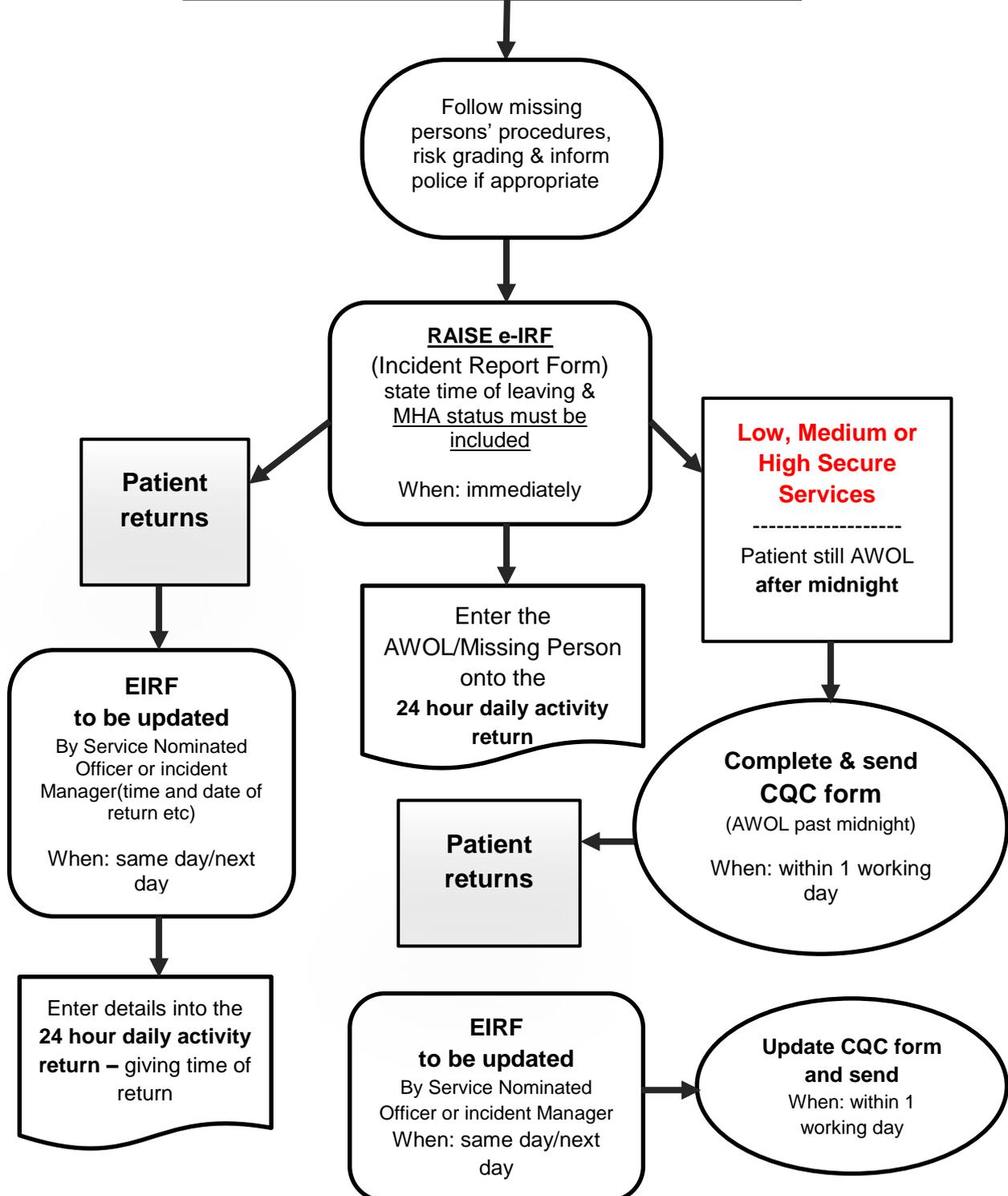
Low risk: Contact On call doctor to review if judged necessary by the Nurse in Charge

Medium and High risk: Contact doctor to review.

PROCESS FOR REPORTING AN AWOL/MISSING Person v6

Definition

MISSING PERSON	AWOL
Any Informal patient leaving against clinical advice (Includes MCA/DOLS)	Any person subject to MHA leaving this ward without permission or not returning from leave at the agreed time



5.0 Duties within the Organisation

5.1 The Trust Board has a legal responsibility for Trust policies and for ensuring that they are carried out effectively.

5.2 Trust Board Sub-committees have the responsibility for ratifying policies and protocols.

5.3. Chief Executive

As the accountable officer, the Chief Executive must ensure that responsibility for the management of missing or AWOL patients is delegated to an appropriate executive lead.

5.4 Chief Nurse

As nominated Executive Lead, the Chief Nurse, must ensure that appropriate and robust systems, processes and procedures are in place for missing and/or AWOL patients.

5.5 Service Managers

The Service Managers are the Trust leads for the development, implementation and monitoring of this policy and for providing advice on measures in place for managing missing and/or AWOL patients.

5.6 Team Managers/Ward Managers

All team/Ward managers have delegated responsibilities for the correct and consistent implementation and monitoring of this policy and the correct completion of documentation

5.7 Medical Team

The medical team are responsible for undertaking the necessary assessments of the mental and physical health of the patients and formulating the appropriate treatment plan in consultation with the wider multidisciplinary teams.

5.8 Clinical Staff

All Trust staff who provide clinical care to patients are responsible for following the procedures in this policy.

5.9 Trust Lead for Risk and Patient Safety

To compile reports on AWOL, Missing Persons episodes for the Trust's Missing Persons and Violence Risk Reduction Group.

6.0 Information

6.1 Professional Judgment

It is the responsibility of the professional concerned with/identifying the missing or AWOL patient to use their professional judgment when considering the most appropriate action, taking into account any risks attached. The decision making process may include consultation with other key

professionals/carers/relatives etc. The process and the decision must be clearly documented in the healthcare records.

6.2 Absent Without Leave (AWOL) Section 18 MHA 1983

6.2.1 A patient, who is detained, or liable to be detained, is considered to be AWOL when they:

- Have left the hospital in which they are detained without their absence being agreed (under section 17 of the Act) by their responsible clinician;
- Have failed to return to the hospital at the time required to do so by the condition of leave under section 17;
- Are absent without permission from a place where they are required to reside as a condition of leave under section 17;
- Have failed to return to the hospital when their leave under section 17 has been revoked;
- Are patients on a community treatment order (CTO) (community patients) who have failed to attend hospital when recalled;
- Are CTO patients who have absconded from hospital after being recalled there
- Are conditionally discharged restricted patients whom the Secretary of State for Justice has recalled to hospital; or
- Are guardianship patients who are absent without permission from the place where they are required to live by their guardian.
- Are patients awaiting assessment for detention under the MHA

6.2.2 Further guidance on section 17 is contained within the Trust's Section 17 Procedural document: Leave of Absence from Hospital.

6.3 Informal (Voluntary) Patients who wish to leave an inpatient setting

6.3.1 Informal, or voluntary, patients are patients who are receiving treatment in a hospital setting for a mental disorder but are not subject to the provisions of the Mental Health Act.

6.3.2 As informal patients are not detained their movements are not subject to the provisions of the law. However the Trust continues to have a duty of care to informal patients and any requests to leave the ward should still be considered in terms risk to self or others.

6.3.3 Where staff do have concerns, they should explain to the patient the rationale for staying on the ward, if the level of risk escalates i.e. the patient insists on leaving, consideration should be given to an assessment under the Mental Health Act, although it is important to remember this course of action should never be used as a threat to the patient.

6.4 Absent Patients

6.4.1 Patients are considered absent when they are not in the place that they are expected or required to be but their location is known.

6.4.2 The Trust has the responsibility to attempt to repatriate the patient by encouraging them to return

6.4.3 The responsible clinician will be asked to review the level of risk if the patient persists in refusing to return. The multidisciplinary clinical team will discuss the risk and make a clinical judgement based on this discussion. The discussion and decision will be documented in the patient record.

6.5 Missing Patients

Patients are 'missing' when their whereabouts are not known, whether they are missing from an inpatient setting where they are not receiving treatment specifically for a mental disorder, are Informal (as described above) or are missing from a community setting, i.e. a community hospital or their usual residence. This includes patients subject to DOLs and MCA.

7.0 Risk Assessment

7.1 Identifying Risk for the Purposes of Reporting

For AWOL/missing persons the Trust uses the same three categories of clinical risk status as Leicestershire Constabulary, Low, Medium and High. This helps ensure that there is clarity of roles and expectation between the two organisations. Police must be informed of all indicators that apply and level of risk for each applicable indicator.

INDICATORS	RISK LEVEL			REPORT TO THE POLICE IMMEDIATELY	
	HIGH	MEDIUM	LOW	Y	N
Extremely vulnerable	X			X	
Violent towards others	X			X	
Immediate Suicidal risk	X			X	
In possession of a weapon	X			X	
Danger to themselves/others	X			X	
Often goes missing from the Ward and does not return		X		X	
Often goes missing from the Ward and does return			x		x

7.1.1 Determining the category should be based on risk assessment, and the professional identifying the patient is missing/AWOL should make use of all relevant information, and seek advice and guidance from key members of the patient's care team including senior staff. Relevant information can include past history, current physical and mental state and known risks, the views and information from friends or carers etc, physical characteristics and most recent appearance.

7.1.2 The risk category must be subject to continued review until an outcome is achieved.

7.2 Low Risk Category

- 7.2.1 The patient may or may not be detained. The patient may be well known to the team and there are no significant risks on assessment, may have had authorised leave, and a known history of going missing/AWOL but returning without incident.
- 7.2.2 Low risk category patients will not be reported to the police but inpatient service staff will contact relatives, attempt to contact the individual, and contact place of residence, etc. The management of the process will be entirely within the Trust, the police will not be informed as this will initiate their missing patient process. The category should continue to be reviewed at reasonable intervals. Trust staff will make reasonable attempts to locate and return the patient to the service, or consider escalation to a higher risk category as required. The incident must be recorded on the Trust incident reporting system.

7.3 Medium Risk Category

- 7.3.1 The patient may or may not be detained. There may be sufficient concern identified that necessitates the need to know where the patient is, that they are safe, and that they may need to be returned to hospital by Trust staff or by police depending on the circumstances
- 7.3.2 Patients assessed as medium risk will be reported to the Police. The police will require as much detail as possible to be made available to them - details of friends, contacts and other relevant information available (e.g. bank account details, photo identification). They will expect a comprehensive ward /hospital search to have been done. The police may need to repeat the ward search as this is part of their core process. The incident must be recorded on the Trust incident reporting system.
- 7.3.3 The police will determine which category applies to the patient under their process for categorisation. The patient will either be deemed as Missing or Absent:

Missing - Anyone whose whereabouts cannot be established and where the circumstances are out of character or the context suggests the person may be subject of crime or at risk of harm to themselves or another.

Absent - A person not at a place where they are expected or required to be. The police will then determine any course of action to be taken.

7.4 High Risk Category

- 7.4.1 The patient may or may not be detained. High risk patients are considered to be in danger of harm to self or others and there is an immediate need to establish their whereabouts, and return to the ward. Patients assessed as high risk will always be reported to the Police.

7.4.2 Details of medication and particularly any potential impact of lack of regular medication will be required. The On Call Manager and Responsible Clinician/Duty Consultant will be informed of all high risk instances. The incident must be recorded on the Trust incident reporting system.

8.0 Procedure for all Missing/AWOL/Absent patients

8.1 The following actions should be taken as soon as the patient is noted to be missing:

- Carry out a thorough search of the ward and immediate areas outside of the ward/unit/hospital. Establish when and where the person was last seen and record a physical description of the person, identifying features, clothes etc.
- Inform the co-ordinator (Bradgate Unit), line manager or local on call manager The Manager on call can also be contacted at the discretion of the co-ordinator or local on call manager. The on call Manager has discretion to also inform the On call Director/on call consultant
- Try and establish whereabouts by contacting the following addresses/telephone numbers:
 - Carers at home address OR the hostel/care home from where the patient was admitted.
 - The next-of-kin/nearest relative as defined by the Mental Health Act as documented in the case notes.
 - Any other known address/telephone numbers.
 - The GP when/if it is deemed appropriate.
- Inform the police and provide a detailed account of patient risk, whereabouts if known, physical description (provide photograph if available as per patient identity policy).
- Record the date and time of all events and search processes in the patient's record.
- Complete an incident report form (EIRF).

8.2 Escorting Patients

8.2.1 Where a patient is being escorted and either attempts to leave or does leave the escort the action taken will depend on the outcome of an immediate risk assessment, consideration should be given to the patient's legal status. The patient should be encouraged to return to the escort. Where this fails the above procedures for missing/AWOL patients should be implemented.

8.2.2 It is important to remember that the 'escort' should be made fully aware of any risks and known patterns of behaviour previously identified prior to

commencing the escort duty. They should also be made aware of the action to be taken if the patient leaves.

8.3. Returning the patient

8.3.1 If the location of the patient is known and the patient is willing to return, the Trust is responsible for arranging their safe return. This will be based on assessment of risk.

8.3.2 The role of the police should wherever possible only be to assist a suitably skilled and experienced mental health professional in returning the patient to hospital.

8.3.3 If a warrant/ court order is required see appendix 1 section 135

8.4 Following the return of the patient

8.4.1 All persons informed of the missing/AWOL patients must be informed of their return.

8.4.2 The patient record should be updated as soon as the patient returns and include the time of return.

8.4.3 The SHO/Duty SHO or consultant/responsible clinician should be asked to attend and assess the mental and physical health of the patient. Together the SHO and nurse in charge of the ward should undertake a risk assessment review for that patient and take and record any appropriate action(s)(including MHA,DOLs and MCA), amending the care plan as necessary.

8.4.4 All instances of AWOL or missing patients should be discussed with the MDT at the next opportunity and at the ward round where appropriate both to inform clinical decision making in regard to the individual patient and to inform general practice on the ward.

8.5. Miscellany

Access to patients homes - where there are concerns about the well-being and safety of a community mental health patient and it is considered necessary to gain access to a patient's home, the care co-ordinator should liaise with the Approved Mental Health Professional (AMHP), the Responsible Clinician and the Police – ref. Section 135 Policy .

8.6 Patients subject to the Mental Health Act 1983

8.6.1 The Mental Health Act Office should be informed of any patients who are AWOL.

8.6.2 Care Quality Commission statutory AWOL notification for detained patients in secure services

8.6.2.1 The Trust has a legal obligation to inform the Care Quality Commission of any detained patient in a **secure** inpatient unit who is AWOL and that AWOL period extends over midnight.

8.6.2.2 The professional who is dealing with the AWOL patient is responsible for completing the CQC Notification form and forwarding the completed form to the CQC.

8.6.3 Patients who leave the country whilst AWOL

8.6.3.1 Detained patients who are AWOL and are found in Scotland, Wales, Northern Ireland, the Channel Islands and the Isle of Man can be retaken, held in custody and returned to this Trust by virtue of Section 88 and Section 138 of the Mental Health Act 1983.

8.6.3.2 The issue of arranging transport for the patient's safe return, and bearing the cost, should be negotiated with the authority responsible for the detention. In the case of a NHS hospital, it is usually the returning hospital that has the responsibility for arranging and funding transport.

8.6.3.3 In the case of hospitals and other bodies overseas, it is reasonable to expect them to act as Trust staff would; that is escort the patient to an airport where the patient can be met and a handover take place to Trust staff. However, this is very much subject to individual negotiation and there are no protocols binding on overseas countries.

8.6.3.4 Patients who identified as AWOL (are detained or liable to be detained) and leave the UK cease to be subject to English Law and are not therefore detained under the MHA whilst abroad. It follows that there is no power to return them under the MHA. It may be that such patients will be detained under Mental Health legislation in another country, in which case arrangements may be made for their return if the provisions of that legislation allow.

8.6.3.5 When AWOL patients go abroad; the police should be notified in order that they can update their records and so that they can consider the need to advise the local foreign police force if the risk is considered high.

9.0 Training needs

There is no training requirement identified within this policy.

10.0 Monitoring Compliance and Effectiveness

10.1 Compliance with this policy will be monitored through the monthly missing persons and violence risk reduction group. The outcome of the monitoring will be reported to the part of the quarterly Patient Safety Report with exception reports to PSG.

10.2 In addition, AWOL and missing person incidents are captured on the Safeguard incident reporting system.

- 10.3 An annual audit of AWOL and Missing Persons incidents will be undertaken, to monitor staff compliance with the duties identified in this policy and identify learning. The findings of this audit and any recommendations and required actions will be presented to the service governance groups and PSG.
- 10.4 Lessons learnt from instances should be shared through team meetings and/or trust wide learning events.

Ref	Minimum Requirements	Evidence for Self-assessment	Process for Monitoring	Responsible Individual / Group	Frequency of monitoring
	Incident reporting	Data from safeguard incident reporting system	Missing patients and violence risk reduction group (MPVRRG) to review data and analyse	MPVRRG	monthly

11.0 Standards/Performance Indicators

TARGET/STANDARDS	KEY PERFORMANCE INDICATOR
CQC Mental Health Act Notifications	See Appendix 2.
CQC standards	Safe, effective.
Quarterly reporting to commissioners	

12.0 References and Bibliography

12.1 This policy was drafted with reference to the following:

- Mental Health Act Code of Practice (2015)
- Mental Health Act 1983(revised 2007)

12.2 Links to other documents

<http://www.leicspart.nhs.uk/ PoliciesDocuments.aspx>

- Observation policy
- Incident Reporting Policy
- Care Programme Approach Policy
- Clinical Risk Assessment Policy
- Section 17 Policy (Leave of Absence from Hospital)
- DNA policy
- Escorting patients policy
- Section 135(1) policy
- Section 135(2) policy
- Section 136 policy
- Patient Identity Policy
- MHA policy
- MCA/DOLS policy
- Rights and responsibilities of Informal Patients (Trust Leaflet)

Appendix 1

Police Involvement & Section 135(2) Mental Health Act

1.0 Police Involvement

- 1.1 The police have clearly defined responsibilities for 'taking into custody' patients who are AWOL (under section 18 of the Mental Health Act), however this may not always be necessary – see Identifying Risk at point 7.
- 1.2 Police assistance may be required in the return of missing patients not subject to section 18 and this would be dependent on the level of risk identified. Where this is the case, it should be remembered that the Trust has no legal basis to detain the patient at that time and any subsequent detention prior to a mental health act assessment would be done so under common law.
- 1.3 This would also apply to the police unless they took the decision to formally detain the patient through separate legislation.
- 1.4 The return of the missing/AWOL patient should be done so in the least restrictive manner possible and with the support of appropriate professionals.
- 1.5 Staff who are in communication with the police must provide information pertinent to the patient's known risk and welfare.

2.0 Section 135(2) of the Mental Health Act 1983 + Mental Health Act 2007 states:

"If it appears to a justice of the peace, on information on oath laid by any constable or other person who is authorised by or under this act to take a patient to anyplace, or to take into custody or retake a patient who is liable under the act to be so taken or retaken –

- a) that there is reasonable cause to believe that the patient is to be found on premises within the jurisdiction of the Justice; and
- b) that permission to the premises has been refused or that a refusal of such admission is apprehended.

The Justice may issue a warrant authorising any constable to enter the premises, if need be by force, and remove the patient".

The warrant enables the patient to be taken to any place, or taken into custody, or to be returned to hospital if already liable to be detained under the MHA. This will include patients who are liable to be detained but for whom conveyance to hospital has not been possible due to refusal of entry to the premises where they are at present. It also applies to a patient under guardianship who has absconded from a place where they are required to reside.

The constable may be accompanied by a registered medical practitioner or by any person authorised by or under the MHA to take or retake the patient.

Patients who are absent without leave (AWOL) from hospital or from the place where the patient is required to live under guardianship, can be retaken up to six months after going absent (if detained under s3 MHA), or until the expiry date of the current authority for their detention or guardianship, whichever is the later. (These timescales do not apply to patients subject to restriction orders under s41 or s49 MHA. A patient cannot be forcibly returned to hospital if the period for which he was liable to be detained under sections 2, 4,5(2), 5(4) MHA has expired.

There may be occasions when section 135(2) warrant is required for patients on supervised community treatment who fail to return to hospital upon being recalled, or abscond from the hospital following recall. The police officer should be accompanied by a person with authority from the managers of the relevant hospital (or local authority, if applicable) to detain the patient and to take or return them to where they ought to be. It is good practice for this person to be a member of the multidisciplinary team responsible for the patient's care. The patient should be told why they are being detained, taken or retaken, before this happens.

When taking or retaking the person to a place under section 135 (2) warrant, the hospital managers or the local authority(as appropriate) should ensure that an ambulance or other transport is available to take the person to the place where they ought to be, in accordance with a locally agreed policy on the transport of patients under the act. The police should not normally be needed to transport the person or to escort them for a section 135 warrant.

2.1 Standards for Practice

Warrants will only be executed by the constable if, in the event, entry to the premises can only be achieved by the use of the warrant. To that extent the level of police intervention and force must be proportionate to the assessed level of risk.

When entering the person's property, the duly authorised health professional (or AMHP if applicable) will ensure the minimum number of professionals necessary to execute the provisions of s. 135(2) MHA in line with good practice.

2.2 Operational Procedures during working hours: S135 MHA

Having established that the grounds for an application are met, and that an application is justified in terms of the Human Rights Act, the duly authorised health professional (or AMHP) will contact Leicester Police to forewarn about the process and to discuss any actions needed. On receiving the request, Leicester Police will create a Serial Log, generating a unique reference number. Leicester Police and the duly authorised health professional/ AMHP will jointly risk assess the execution of the warrant, exploring all sources of risk knowledge available.

All agencies involved will enquire into the background of the patient (as known to his/her agency) and exchange relevant information, for example:

- The time and place of the proposed assessment;
- The identity of the person to be assessed;
- The premises to be entered;
- The type of any equipment required to effect an entry;
- The identity of the professional involved;
- The location of the place where they are being taken to; and

- The name and telephone contact number of the professional responsible for organising the assessment and the subsequent conveyance of the patient.

The duly authorised Health Care Professional/ AMHP will telephone the local Magistrates Court during working hours) in order that the Clerk to the Justices/Court Services legal adviser can arrange for the application to be heard by the Magistrate, and a warrant issued.

The duly authorised Health Care Professional/ AMHP will ensure that any intervention under s. 135 (2) MHA can be justified with 'relevant and sufficient' evidence in order to be compatible with the Human Rights Act 1988 and the European Convention on Human Rights (ECHR). The justice of Peace will consider any application within the context of Article 5 of the Human Rights Act. Entry to a person's home must therefore, in all the circumstances of the situation, be a proportionate measure within the context of this legislation.

The decision to grant a warrant to a constable or to a duly authorised Health Care Professional/ AMHP by a court is usually in a process that is 'ex parte' – without giving notice to the person affected. The court will therefore need to be assured that, in accordance with Articles 5 and 6 of the ECHR, it is absolutely necessary that such an urgent and serious procedure is required in order to achieve the safety or protection of the person concerned. Wherever possible applications for a warrant should only be applied for within normal court hours. Applications out of hours should only be made if the application is urgent and it is intended to execute the warrant out of normal court hours.

The warrant issued will specify the name of the person sought (if known), the date of issue, and the address of the premises.

Three copies of the warrant will be made, with copies clearly marked as such:

- **A** (coloured pink) will be left with the occupier of the premises searched or in his/ her absence, left with the person in charge of the premises, or if no such person is present, left in a prominent place on the premises.
- **B** (coloured green) will be given to the police executing the warrant
- **C** (coloured yellow) will be retained by person in charge of place to which person is removed.

Entry to the place must take place within one calendar month of the date of issue of the warrant, the warrant can however only be serviced on one occasion

The original warrant (white front sheet) must be returned to the Clerk of the Justices by the duly authorised person/ AMHP as soon as possible after the month in which it expires, whether used or not.

2.3 Arrangements when executing a warrant under section 135(2) MHA

Police officers will only apply for and obtain these particular warrants in very exceptional circumstances. Normally, a constable will be accompanied by an appropriately qualified mental health professional. The latter would include: a suitably qualified member of nursing staff from the ward, a doctor, or a suitably qualified member of the local community mental health service. Any such staff would need to be authorised to take or re-take the patient.

In line with good practice, the Care Programme Approach (CPA) care co-ordinator or suitably qualified named nurse should be involved, wherever possible, in obtaining and executing any warrant in relation to section 135 (2) MHA.

There is an expectation that ward staff will normally be responsible for the return of patients who are absent without leave from the hospital and staff who know the patient will be responsible when a Community Treatment Order is recalled. An AMHP will be involved if an application has been signed and the person is liable to detention but has not arrived at hospital.

There should not be delay because there is a dispute between professionals over who is the appropriate authorised person to attend the Magistrates Court to seek a warrant. Should this happen advice will be sought from a General Manager, or On Call Manager if out of hours, to make a decision and avoid any delay which may increase risk to the patient.

Where a warrant has been served under section 135 (2) MHA, the person shall be removed to a place where he/she is required to reside under the terms of his/her detention or guardianship.

When taking or retaking the person under section 135(2) warrant, hospital managers or the local authority(as appropriate) should ensure that an ambulance or other transport is available to take the person to the place where they ought to be, in accordance with a locally agreed policy on the transport of patients under the act. The police should not normally be needed to transport the person or to escort them for a section 135 (2) warrant.

2.4 Operational Procedures outside working hours: section 135(2) MHA

The granting of warrants outside normal Court working hours is considered to be an exceptional activity and should therefore be avoided. Having established that this is not the case, it will be necessary to contact one of the Court Services legal advisers before approaching a duty magistrate. All applications for out of hour's warrants must be screened first by a Court Services legal adviser. Leicester Police will advise of the contact telephone number for the duty adviser. This number can only be obtained from the Custody Sergeant.

The Court Services legal advisor will require the following:

- The name, address and telephone number of the person seeking the warrant;
- The nature of the application including the statutory provision and brief facts;
- The time when the application is sought to be made;
- The name(s) of the person(s) who will be attending to make the application; and
- The time is intended to execute the warrant.

The Court Services legal advisor will advise of the location of the duty magistrate and confirm what actions are necessary. Staff will need to be prepared to show their official identity card to the duty magistrate.

Appendix 2



The Care Quality Commission checks whether hospitals, care homes and care services are meeting government standards. Visit our website at www.cqc.org.uk.

Mental Health Act notifications

Providers registered under the Health and Social Care Act 2008 must notify us about deaths and unauthorized absences of people detained or liable to be detained under the Mental Health Act 1983.

People liable to be detained include, for example, those on Section 17 leave of absence from hospital, or those held under short-term powers of Sections 5, 135 or 136. They must also report certified treatment under Section 61.

Absence without leave (AWOL) of a detained patient from detention in low, medium or high security services

Services that are designated as low, medium or high security are required to notify CQC of any absence without leave (AWOL) of a person detained or liable to be detained under the Mental Health Act 1983.

This requirement came into force on the 18 June 2012, replacing previous requirements for AWOL notification. **There is no longer any requirement that services that have no specific security designation notify CQC of AWOL incidents.**

Services that are designated as low, medium or high security are also required to notify CQC of the return of a patient who has been AWOL. Part 2 of the form below deals with the return of AWOL patients: it is acceptable to return this part of the form separately from Part 1, which asks for notification of the initial absence.

Please complete the form using the following link:

[Mental Health Act notification: Absent without Leave \(AWOL\)](#)

Appendix 3

The NHS Constitution

The NHS will provide a universal service for all based on clinical need, not ability to pay.
The NHS will provide a comprehensive range of services

Shape its services around the needs and preferences of individual patients, their families and their carers	<input type="checkbox"/> ✓
Respond to different needs of different sectors of the population	<input type="checkbox"/> ✓
Work continuously to improve quality services and to minimise errors	<input type="checkbox"/> ✓
Support and value its staff	<input type="checkbox"/> ✓
Work together with others to ensure a seamless service for patients	<input type="checkbox"/> ✓
Help keep people healthy and work to reduce health inequalities	<input type="checkbox"/> ✓
Respect the confidentiality of individual patients and provide open access to information about services, treatment and performance	<input type="checkbox"/> ✓

Appendix 4

Stakeholders and Consultation

Key individuals involved in developing the document

Name	Designation
Vicky McDonnell	Trust Lead – Risk and patient safety
Steve Walls	Local Security Management Specialist
Sam Marandi	Ward Manager, Bradgate Unit
Sarah Latham	Matron, Community Hospitals
Fran Guerra	Service Manager-CAMHS inpatients
Alison Wheelton	Senior MHA Administrator
Zayad Saumtally	Matron MHSOP inpatients

Circulated to the following individuals for comment

Name	Designation
Jacqueline Burden	Clinical Governance Lead, AMH/LD
Michelle Churchard- Smith	Head of Nursing, AMH/LD Services
Anthony Oxley	Head of Pharmacy
Claire Rashid	Trust Lead, Quality & Patient safety
Diane Postle	Trust Lead Nurse for Professional Standards
Avinash Hiremath	Specialist Clinical Director, AMH&LD
Leon Herbert	Prevent Lead
Greg Payne	Training Delivery Manager, LPT
Caroline Towers	Patient Safety Analyst
Helen Wallace	Regulation & Assurance Lead
Lynne Moore	Practice Development Nurse, LPT
Dot McGarrell	Ward Matron, The Willows
Rachael Shaw	Ward Matron, Thornton Ward
Jo Nicholls	Patient, Quality & Safety Manager
Samantha Roost	Senior Health Safety & Security Advisor
Julian Serra	PMA Facilitator, LPT
Ian Thomas	PMA Trainer, LPT
Joseph Zulu	Clinical Trainer
Fran Oloto	Specialist Safeguarding Named Nurse
Jenny Dolphin	Clinical Governance Manger, AMH/LD
Mia Morris	Incident Team Leader
Michaela Chanarika	Ward Matron, HPC
Baskara Lingam	Staff Side Representative
Elena Relph	Clinical Audit Officer
Louise Short	Clinical Trainer&Practice Development Officer
Fern Barrell	Risk Manager, Assurance
Kerry Palmer	Medical Devices Asset Manager
Alison Scott	Clinical Dietetic Manager-Primary Care
Nikki Beacher	Head of Service, Community Health Services
Michelle Brookhouse	Head of Learning & Development
Bal Johal	Deputy Chief Nurse, Quality & Innovation
Carl Lomas	Quality & Data Analyst, Clinical Audit

Kerry O'Reardon	Serious Incidents Lead, AMH&LD
Vicki Spencer	FYPC-Clinical Governance & Quality Lead
Carlton Symonds	NICE & Effectiveness Officer
Julie Warner	Clinical Audit Office
Jane Capes	Senior Matron, Bradgate Unit
Elizabeth Compton	Senior Matron, Bradgate Unit
Bob Lovegrove	Security Management Specialist