



**Report to the  
Mental Health Operational and Scrutiny Groups  
on the use of  
The Mental Health Act, 1983**

**1<sup>st</sup> January 2019 – 31<sup>st</sup> March 2019**

**(Quarter 4)**

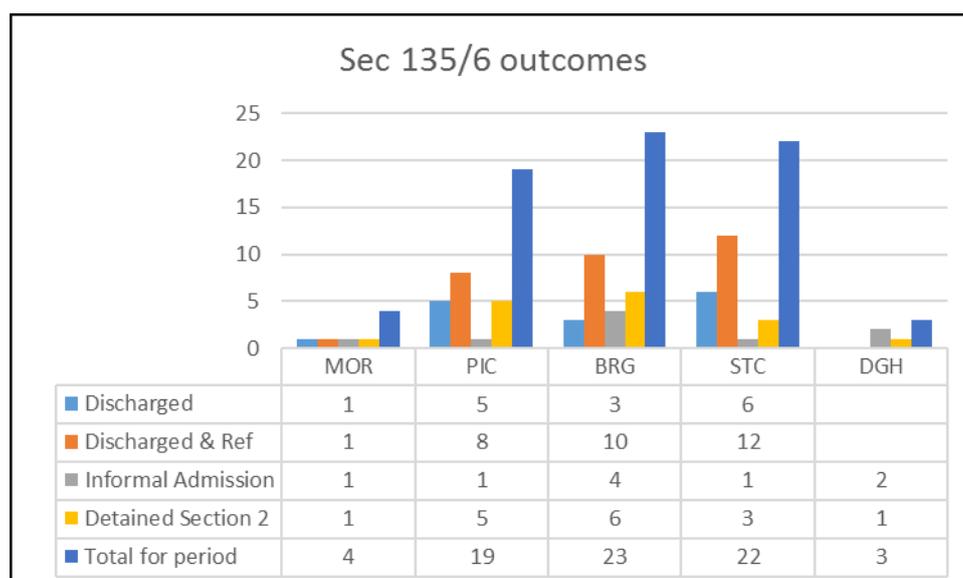
## 1. Mental Health Act, 1983 - Data Collection and Exception Reporting

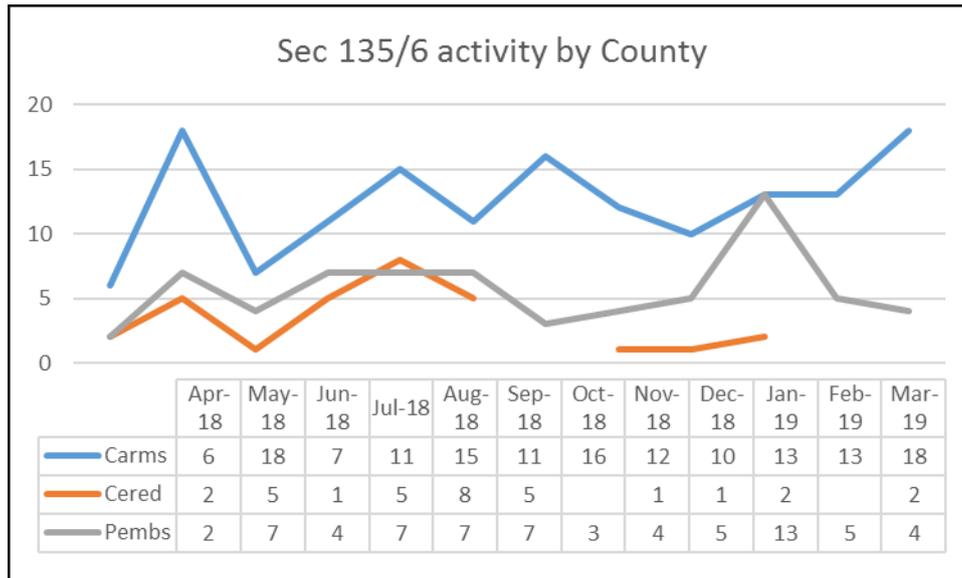
The data below summarises some of the key points of the use of the Mental Health Act (MHA) during Qtr 4.

- Use of Section 136 has increased, it was used on 70 occasions compared to 53. Section 135 was used on 1 occasion
- The use of Section 2 has increased, it was used on 82 occasions compared to 71 for the previous quarter. 48 of the detentions were direct from the community and 3 patients were transferred in.
- Section 3 was used on 27 occasions compared to 32 for the previous quarter. 1 Section 3 was to an older adult wards and 1 patient was transferred in.
- Section 5(2) was used on 26 occasions compared to 22 for the previous quarter. It was implemented within general hospital setting on 1 occasion.

### i) Section 136 – Removal of Mentally Disordered Persons to a place of Safety

- Use of Section 136 has increased - 70 occasions compared to 53 (22 to Bryngofal, 22 to St Caradog, 19 to PICU, 4 to Morlais and 3 to GGH)
- Following Sec 136 assessments 15 patients were detained on further sections of the Mental Health Act
- 46 patients did not require admission and were discharged back into the community
- All assessments were carried out within 24 hours
- There were no detentions to police custody
- There was one section 135(1) which resulted in a Section 2





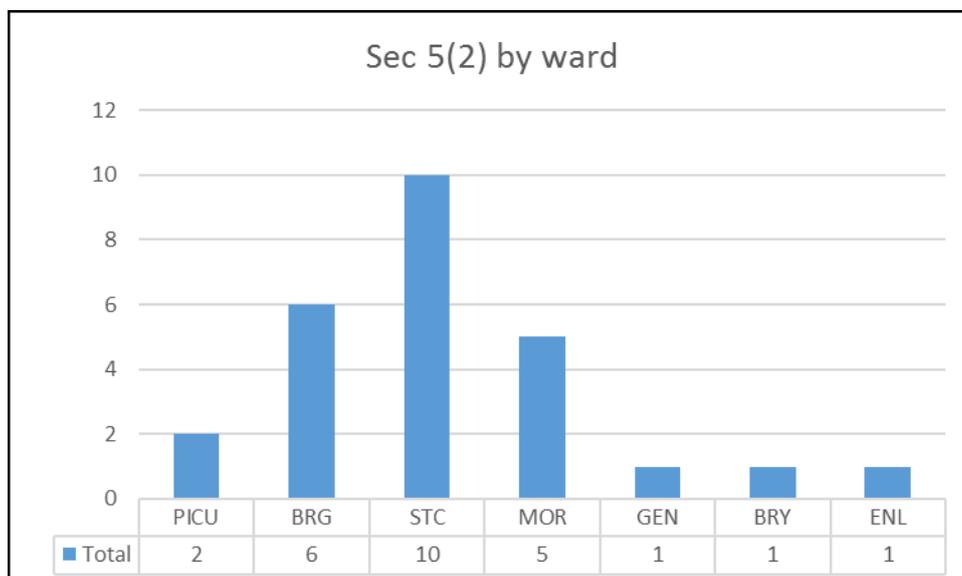
**(ii) Section 5 - Holding Powers**

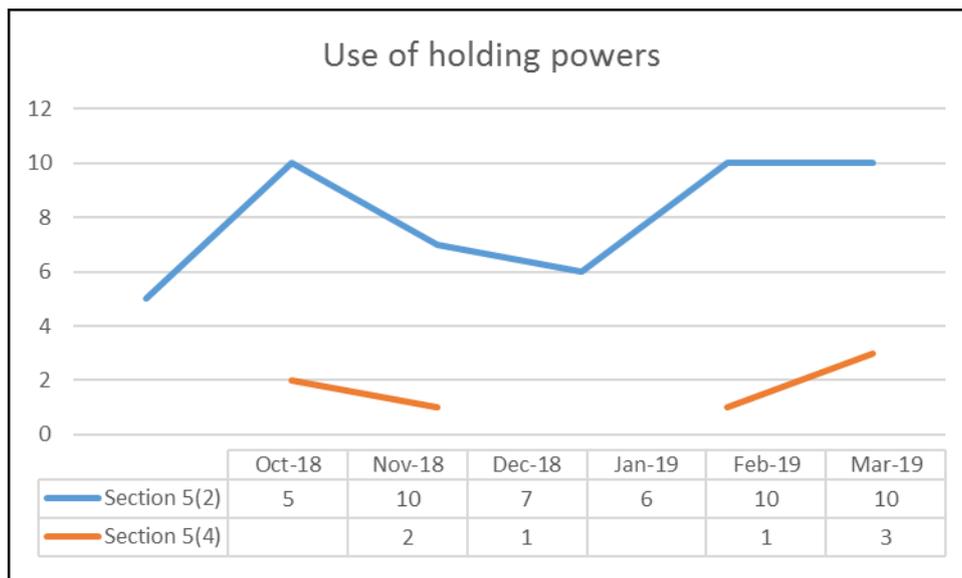
Section 5(2) – used by Doctors in both mental health and general hospital settings to detain an in-patient for up to 72 hours to allow for a mental health act assessment to take place.

- Use of this holding power has increased 26 occasions compared to 22
- Used in a general hospital setting on 1 occasion
- 24 assessments were carried out within 60 hours
- 17 of those patients were further detained on Section 2 or 3

Section 5(4) – used by mental health and learning disability nurses in mental health in-patient settings for up to 6 hours to allow for a further assessment to take place.

- Use of this holding power has increased 4 occasions compared to 3
- All patients were further detained on a Section 5(2)



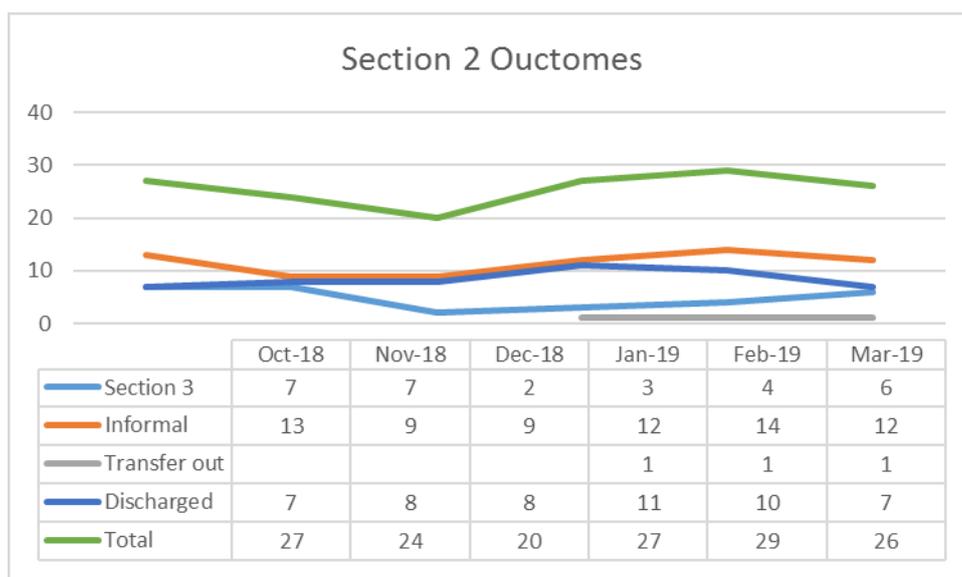


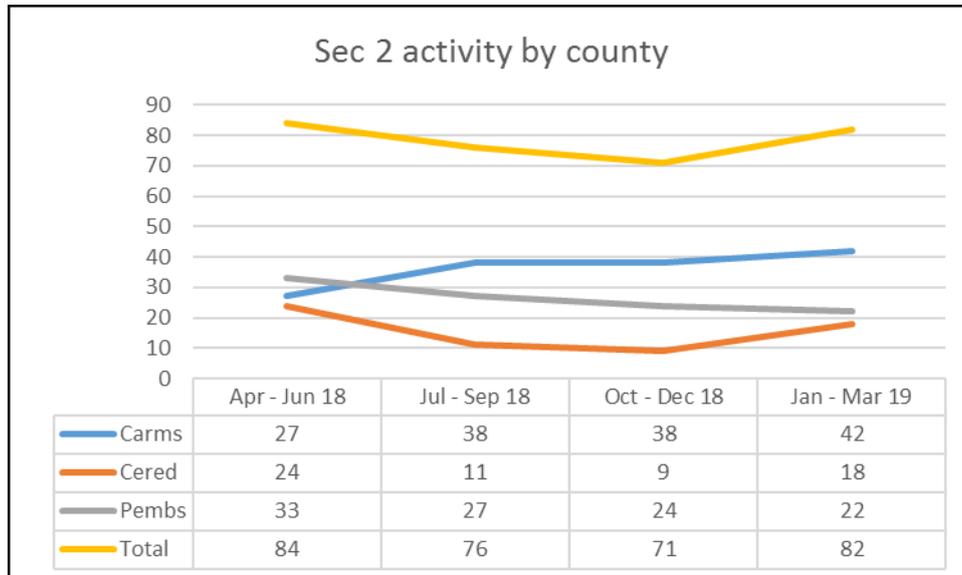
**(iii) Section 2 – Admission for Assessment**

The use of Section 2 provides for someone to be detained in hospital for assessment and treatment of their mental disorder.

- Use of section 2 has increased 82 compared to 71 for the previous quarter
- 48 patients were admitted direct from the community
- 3 patients were transferred in from another hospital outside the health board
- 12 patients went on to Section 3 for treatment

Graphs below show the usage across the three counties and outcomes following assessment

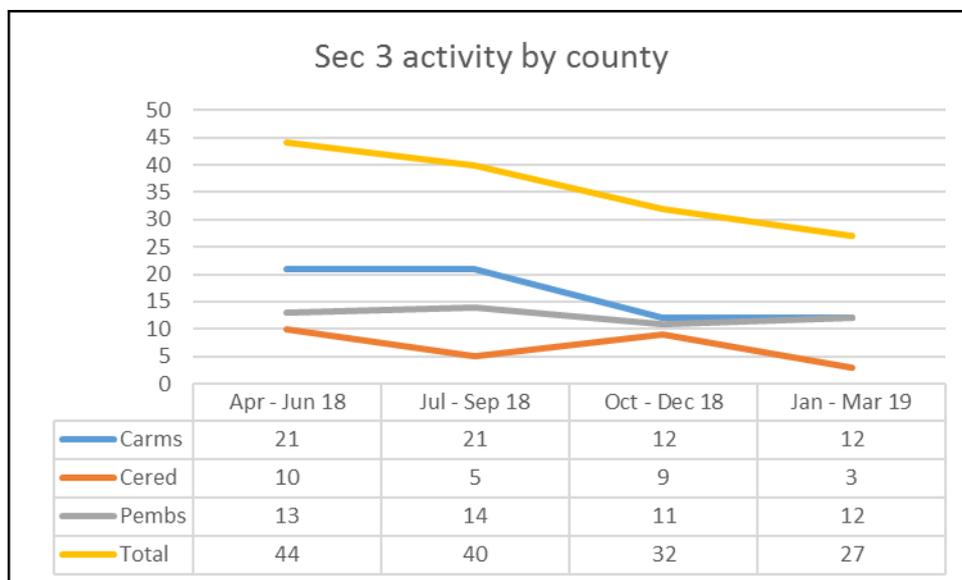




**(iv) Section 3 – Admission for Treatment**

The use of Section 3 provides for someone to be detained in hospital for treatment of their mental disorder.

- Use of Section 3 has decreased 27 compared to 32 for the previous quarter
- 12 patients subject to Section 2 had their sections converted to Section 3
- 1 patient was detained to an older adult ward



**(v) Community Treatment Orders (CTO)**

There were 49 Community Treatment Orders in place as at 31 March 2019.

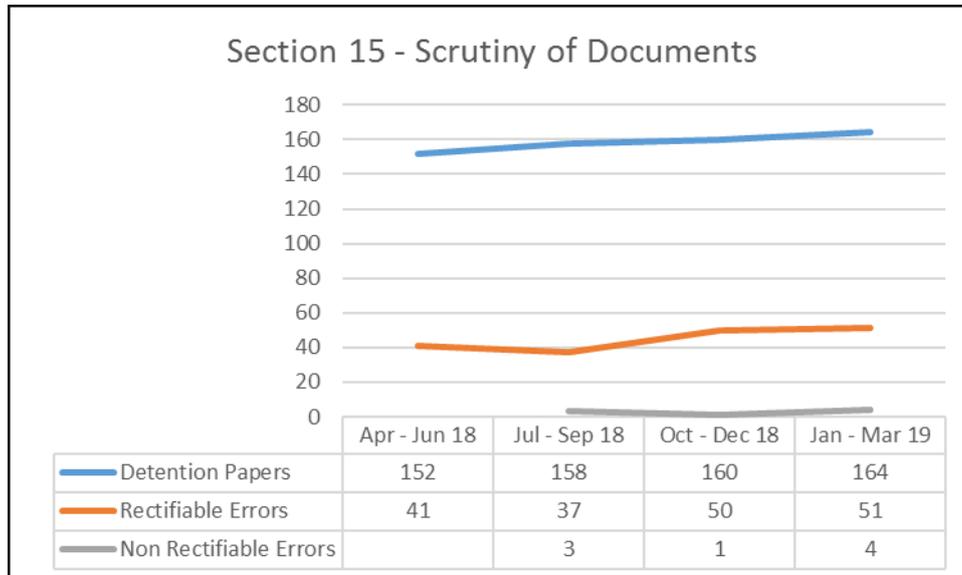
County	Number of CTO's
Carmarthenshire	25
Ceredigion	15
Pembrokeshire	9

- 12 new CTOs for the quarter compared to 10 for the previous quarter
- 4 patients were recalled resulting in them all having their CTOs revoked
- 7 patients were discharged from their orders by their Responsible Clinician.

**(vi) Scrutiny of Documents**

- 164 statutory documents were medically scrutinised
- 46 rectifiable errors were made on documents - corrections carried out within the statutory time limits (14 days)
- There were four invalid detentions which were picked up by the MHA Administration team – see details below

Date	Section	Reasons	Outcome
31 January 19	Section 3 St Caradog	Wrong ward address completed on HO6 AMHP application	New AMHP application completed
15 February 19	Section 2 Bryngolau	English forms completed instead of Welsh forms	Patient stayed voluntarily
27 February 19	Section 3 Bryngofal	Nearest relative objection to the AMHP application	Nearest Relative agreed to section
31 March 19	Section 5(2) Morlais	HO12 form not signed by the Doctor	Another 5(2) completed



**(vii) Locked Door**

The doors were locked on the three acute wards for the following:

Ward	No. of days locked
Bryngofal	90
Morlais	90
St Caradog	90

A variety of methods are used on the Elderly and Learning Disability wards to prevent vulnerable patients from leaving the ward, these include digital locks, automatic locks and keypad locks.

**(viii) Exclusion of Visitors**

No visitors were excluded from visiting detained patients during the reporting period.

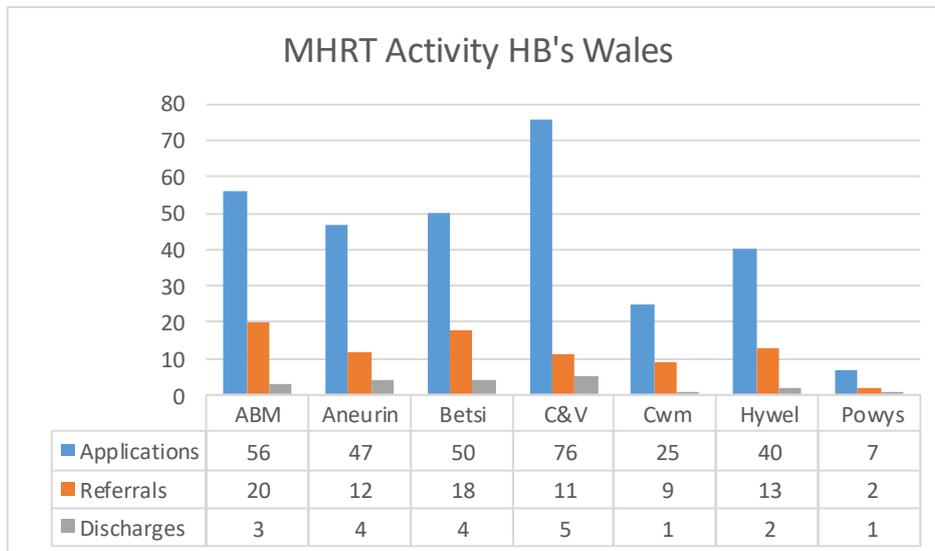
**(ix) SOAD (Second Opinion Appointed Doctor) requests to Healthcare Inspectorate Wales**

- 22 SOAD requests were made
- Average waiting time (medication for inpatients) was 15 days
- Longest was 42 days for a CTO patient.
- Section 62/64 emergency treatment forms were completed on 38 occasions

**(x) Applications for Discharge to Hospital Managers and Mental Health Review Tribunal**

- 16 (compared to 15 last quarter) applications to the hospital managers resulting in 4 hearings taking place (1 hearing from an application made during Qtr 3)

- The hospital managers heard 23 renewal hearings compared to 17 last quarter. The Code of Practice states renewal hearings should ideally be held before the section expiry date. 7 out of 17 renewal hearings were not listed before the section expiry date – reasons for this are as follows:-
  - Original hearing was adjourned by Hospital Managers
  - Patient working so later date accommodated their wishes
  - Patient requested later date for hearing to accommodate their availability
  - Responsible Clinician was on three weeks leave during period of renewal for two patients
  - Doctor in area not approved so renewal paperwork received by MHA Admin team very close to the expiry date
  - Responsible Clinician was unable to provide an earlier date
  - No application for discharge was made by a nearest relative during this quarter
- There were 59 applications/referrals to the Mental Health Review Tribunal resulting in 24 hearings taking place
- There have been 2 discharges by the MHRT (1 x section 2 deferred discharge and 1 x Community Treatment Order).
- There have been no discharges by the Hospital Managers during this quarter.



## Description of Sections

### Longer Term Sections (medication can be given)

Section 2 Admission for assessment – up to 28 days

Mental Health Act assessment undertaken by 2 registered medical practitioners, where practicable by one who knows the patient. One must be Section 12(2) approved. An Approved Mental Health Professional (AMHP) must also assess, preferably at the same time as at least one registered medical practitioner.

Criteria needs to be met -

*a) is suffering from mental disorder of a nature or degree which warrants the detention of the patient in a hospital for assessment (or for assessment followed by medical treatment) for at least a limited period; and  
b) ought to be so detained in the interests of his own health or safety or with a view to the protection of other persons*

2 x medical recommendations (HO4), 1 x application from AMHP (HO2)

Section 3 Admission of treatment – up to 6 months, renewable for 6 months, 12 monthly thereafter

Mental health act assessment undertaken by 2 registered medical practitioners, where practicable by one who knows the patient. One must be Section 12(2) approved. An Approved Mental Health Professional (AMHP) must also assess, preferably at the same time as at least one registered medical practitioner.

Criteria needs to be met -

*a) is suffering from mental disorder of a nature or degree which makes it appropriate for him to receive medical treatment in hospital; and  
b) it is necessary for the health and safety of the patient or for the protection of other persons that he should receive such treatment and it cannot be provided unless he is detained under this section; and  
c) appropriate medical treatment is available for him.*

2 x medical recommendations (HO8), 1 x application from AMHP (HO6)

### Short Term Sections (medication cannot be given)

Section 4 Admission for emergency – up to 72 hours

mental health act assessment undertaken by a registered medical practitioner, where practicable by one who knows the patient  
An Approved Mental Health Professional (AMHP) must also assess the patient – ideally at the same time

Criteria needs to be met -

*“it is of urgent necessity for the patient to be admitted and detained under section 2” and that compliance with the provisions relating to application under that section “would involve undesirable delay”*

1 x medical recommendation, (HO11) 1 x application from AMHP (HO10)

Section 5(2) Approved Clinician Holding Power – up to 72 hours

mental health act assessment undertaken by a registered medical practitioner.

Criteria is - *that an application for compulsory detention "ought to be made".*

1 x Form HO12

Section 5(4) Nurses Holding Power – up to 6 hours

Criteria is: if it appears to a nurse of the 'prescribed class' firstly that "...*the patient is suffering from mental disorder to such a degree that it is necessary for his health and safety or for the protection of others for him to be immediately restrained from leaving the hospital*". Secondly the nurse must believe that "...*it is not practicable to secure the immediate attendance of a practitioner or clinician for the purposes of furnishing a report under subsection (2)...*" In other words, the doctor or approved clinician (or their deputy) cannot attend in time to provide a report under section 5(2).

1 x Form HO13

Community Treatment Order and related sections (medication can be given)

Section 17A Community Treatment Orders – up to 6 months, renewable for 6 months (17A+) 12 monthly thereafter (17A ++)

Criteria is:

*the patient is suffering from mental disorder of a nature or degree which makes it appropriate for him to receive medical treatment;*  
*it is necessary for his health and safety or for the protection of other persons that he should receive such treatment;*  
*subject to his being liable to be recalled ... such treatment can be provided without his continuing to be detained in a hospital;*  
*it is necessary that the responsible clinician should be able to exercise the power under section 17E (1) below to recall the patient to hospital;*  
*appropriate medical treatment is available for him*

Form CP1

Section 17E Recall of a CTO. Duration is up to 72 hours, which starts once the patient has been admitted to the hospital.

Criteria is: *a change of mental state or increase in risk.*

Form CP5

Section 17F Revocation of a CTO patient who has been recalled to hospital – the section is the re-introduction of the Section 3 or Section 37 (depending on what section they were on previous to the CTO) - up to 6 months, renewable for 6 months, 12 monthly thereafter

Criteria needs to meet the same as Section 3 -

*a) is suffering from mental disorder of a nature or degree which makes it appropriate for him to receive medical treatment in hospital; and*  
*b) it is necessary for the health and safety of the patient or for the protection of other persons that he should receive such treatment and it cannot be provided unless he is detained under this section; and*  
*c) Appropriate medical treatment is available for him*

Revocation requires the written agreement of an AMHP. Form CP7

Places of Safety Sections (medication cannot be given)

Section 135 Warrant to search and remove

Section 135(1) – warrant to enter and remove

Section 135(1) empowers a magistrate to authorize a police constable to remove a person lawfully from private premises to a place of safety.

A warrant may be issued if, on having information on oath from an approved mental health professional (AMHP), it appears to the magistrate that there is reasonable cause to suspect that a person believed to be suffering from mental disorder is:

Criteria is:

*has been, or is being, ill-treated, neglected or kept otherwise than under proper control, in any place within the jurisdiction of the justice, or being unable to care for himself, is living alone in any such place*

Section 135(2) – warrant to enter and take or retake

Section 135(2) concerns the taking into custody of patients who are unlawfully absent.

A magistrate can issue a warrant to take or retake the patient if it appears, on information on oath by any constable or any “*other person authorised by or under this Act... to take...or retake a patient who is liable under this Act*”, that:

*There is reasonable cause to believe that the patient is to be found on premises within the jurisdiction of the justice; and*

*That admission to the premises has been refused or that a refusal of such admission is apprehended*

Section 136 Place of Safety – up to 24 hours

The powers of section 136 provide authority for a police officer who finds a person who appears to be suffering from mental disorder, in a place to which the public has access, to remove him to a place of safety if the person:

Criteria is:

*Appears to be suffering from mental disorder and to be in immediate need for care or control, the constable may, if he thinks necessary to do so in the interests of that person or for the protection of other persons, remove that person to a place of safety...*

Part 3 - Sections in relation to Patients concerned with criminal proceedings or under sentence

Section 35 Remand to hospital for report on accused’s mental condition – for up to 28 days but can be extended to a maximum of 12 weeks (*medication cannot be given*)

An approved clinician (at the hospital) is required to provide a report to the court. The court must be satisfied (on the written or oral evidence of any doctor) that:

- (a) *...there is reason to suspect that the accused person is suffering from mental disorder; and*
- (b) *...it would be impracticable for a report on his mental condition to be made if he were remanded on bail*

Section 36 Remand of accused person to hospital – up to 28 days but duration will be set by the Court – maximum of 12 weeks (*medication can be given*)

The Section 36 is to allow a Crown Court to remand an accused person to hospital for the purposes of treatment. The court must be satisfied (on the written or oral evidence of two doctors, one of whom must be section 12(2) approved) that the patient:

- (a) *...is suffering from mental disorder of a nature or degree which makes it appropriate for him to be detained in a hospital for medical treatment; and*
- (b) *appropriate medical treatment is available for him*

Section 37 Hospital Order or Guardianship Order - up to 6 months, renewable for 6 months, 12 monthly thereafter (*medication can be given*)

Section 37 enables a Crown Court or a magistrates' court to order a person to be detained in hospital for treatment (or make a person subject to guardianship) when otherwise they may have imposed a prison sentence. The "hospital order" or a "guardianship order" is given as an alternative to imprisonment, a fine, or probation if appropriate.

The court must be satisfied (on the written or oral evidence of two doctors, one of whom must be section 12(2) approved) that the patient:

*is suffering from mental disorder and that either –*

- (i) *the mental disorder from which the offender is suffering is of a nature or degree which makes it appropriate for him to be detained in a hospital for medical treatment and appropriate medical treatment is available for him; or*
- (ii) *in the case of an offender who has attained the age of 16 years, the mental disorder is of a nature or degree which warrants his reception into guardianship...;and*

*...the court is of the opinion, having regard to all the circumstances including the nature of the offence and the character and antecedents of the offender, and to all other available methods of dealing with him, that the most suitable method of disposing of the case is by means of an order under [section 37]*

Section 37/41 Hospital Order with Restrictions – made with no time limit (*medication can be given*)

A Crown Court may, if necessary for the protection of public from serious harm, place restrictions onto a hospital order at the time of making the order under section 37.

The restrictions, Section 41, sets out that the Court must have regard to "*...the nature of the offence, the antecedents of the offender and the risk of his committing further offences if set at large...*" and if it is necessary "*for the protection of the public from serious harm...*" the Court can order that the patient is subject to the special restrictions of the section.

An order made under section 41 is known as "a restriction order", and is commonly referred to as "section 37/41" or a "hospital order with restrictions".

In addition to the requirements for making an order under section 37, the Court must receive oral evidence from at least one of the registered medical practitioners who gave evidence under section 37.

Section 38 Interim Hospital Order – up to 12 weeks, but duration set by the Court – maximum 12 months (*medication can be given*)

To allow a court to send a person who has been convicted but not yet sentenced to hospital, to assess the person's response to medical treatment. The court must be satisfied (on the written or oral evidence of two doctors, one of whom must be section 12(2) approved) that the patient:

- (a) *...is suffering from mental disorder; and*
- (b) *that there is reason to suppose that the mental disorder from which the offender is suffering is such that it may be appropriate for a hospital order to be made in his case,*

*the court may, before making a hospital order or dealing with him in some other way, make an order (...referred to as "an interim hospital order") authorising his admission to ... hospital...*

Section 47 } Transfer of sentenced prisoners (including with restrictions) -  
Section 47/49} *(medication can be given)*

Allows the Secretary of State for Justice to order the transfer to hospital of a sentenced prisoner following conviction. The Secretary of State must be satisfied (from the reports of two doctors, one of whom must be section 12(2) approved) that the patient:

- (a) *... is suffering from mental disorder; and*
- (b) *that the mental disorder from which that person is suffering is of a nature or degree which makes it appropriate for him to be detained in a hospital for medical treatment; and*
- (c) *that appropriate medical treatment is available for him*

The Secretary of State must have "...regard to the public interest and all the circumstances..."

A direction made under section 47 is known as a 'transfer direction'. A transfer direction may be accompanied by the special restrictions of section 41, by virtue of section 49. Such a direction is known as a "restriction direction" and is commonly referred to as 'section 47/49' or a 'transfer and restriction direction'

Duration - the transfer direction (including a restricted section 47) ends at the earliest date of release (EDR). At this time the patient, unless discharged by the responsible clinician, will be treated as though a hospital order had been made (and is referred to as a 'notional section 37').

Section 48 } Transfer of other prisoners (including with restrictions) for urgent  
Section 48/49} treatment

Allows the Secretary of State for Justice to order the transfer to hospital of a prisoner who is not sentenced but in urgent need of treatment. The Secretary of State must be satisfied (from the reports of two doctors, one of whom must be section 12(2) approved) that the patient:

*... is suffering from mental disorder of a nature or degree which makes it appropriate for him to be detained in a hospital for medical treatment; and he is in urgent need of such treatment; and appropriate medical treatment is available for him*

The section only applies to:

- persons detained in a prison, not being a person serving a sentence of imprisonment or persons falling within the following groups
- persons remanded in custody by a magistrates' court;
- civil prisoners, that is to say, persons committed by a court to prison for a limited term, who are not persons falling to be dealt with under section 47;
- persons detained under the Immigration Act 1971 or under section 62 of the Nationality, Immigration and Asylum Act 2002 (detention by Secretary of State).

It is known as a 'transfer direction'. A transfer direction may be accompanied by the special restrictions of section 41, by virtue of section 49. Such a direction is known as a "restriction direction" and is commonly referred to as 'section 48/49' or a 'transfer and restriction direction'. A restriction direction must be given in respect of

- persons detained in a prison, not being a person serving a sentence of imprisonment
- persons remanded in custody by a magistrates' court;

Duration - the period of detention is variable and can continue to the time of sentence; the Secretary of State can also issue a warrant to return the person to prison at any time before the Court disposes of the case.

## **GLOSSARY OF TERMS**

<b>Term</b>	<b>Description</b>	<b>Explanation/Link</b>
MHA	Mental Health Act 1983	<a href="http://www.legislation.gov.uk/ukpga/1983/20/contents">http://www.legislation.gov.uk/ukpga/1983/20/contents</a>
Sections		Parts of the Mental Health Act 1983 which allow particular types of detention.
PICU	Psychiatric Intensive Care Unit	Severely ill patients who pose a risk in the short term.
AMH	Adult Mental Health	Core age range 18 – 65.
CAMHS	Child and Adolescent Mental Health Services	Core age up to 18 years.
EMI	Elderly Mentally Ill	Usually implies memory problems.
Part 2 of the Act	Part 2 of the Mental Health Act 1983	Deals with detention, guardianship, and supervised community treatment for civil (i.e. non-offender) patients.
Part 3 of the Act	Part 3 of the Mental Health Act 1983	Deals with mentally disordered offenders and defendants in criminal proceedings.
HIW	Healthcare Inspectorate Wales	Independent body which is responsible for monitoring the operation of the Act.
Secondary Care		Psychiatric inpatient or community mental health team input for adults.
SOAD	Second Opinion Appointed Doctor	Independent doctor employed by HIW who approves particular forms of medical treatment for a patient.
CTO	Community Treatment Order	Patients can be discharged from detention in hospital under the Act but remain subject to the Act in the community.
Formal admission		Patients admitted to hospital who are detained.
Exception Reporting		Section 136's over 4 hours; Section 5(2) over 60 hours; Hospital Managers' Hearings heard after one month.
MHRT	Mental Health Review Tribunal	A judicial body that has the power to discharge patients from detention, supervised community treatment,

		guardianship and conditional discharge.
Hospital Managers		Independent individuals who carry out functions on behalf of the Board.
Recall		Where it is necessary for a CTO patient to be recalled into hospital.
Revocation		Patients for whom a CTO has been rescinded following recall.
Application		Request from a patient for the MHRT to consider discharge from section.
Referral		Hospital managers request the MHRT to consider a patients detention.
AMHP	Approved Mental Health Professional	Professional with training in the use of the Act, Approved by a local social services authority to carry out a number of functions under the Act.