



# Transfer to Hospital with Restrictions of a Person Serving a Sentence of Imprisonment

(Section 47 and 49 of the Mental Health Act 1983)



**Sussex Partnership**  
NHS Foundation Trust

## Why am I in hospital?

You have been moved from prison to this hospital because the Secretary of State for Justice has been advised by two doctors that you have a mental disorder and that you need to be in hospital for medical treatment.

The Secretary of State for Justice has issued a "transfer direction" under section 47 of the Mental Health Act 1983, which allows a sentenced prisoner to be transferred to hospital. You have also been made subject to a restriction direction.

## What is a restriction direction?

A restriction direction is made under section 49 of the Mental Health Act by the Secretary of State for Justice when he directs the transfer of a sentenced prisoner to hospital. It means that you cannot be discharged from hospital unless the Secretary of State for Justice or the Parole Board says that you can leave, and your discharge may be subject to certain conditions that would be explained to you at the time. While you are in hospital the person in charge of your care (your responsible clinician) must get the Secretary of State for Justice's agreement before you can go on temporary leave or be sent to another hospital. They must also examine you and send a report about you to the Secretary of State at least once a year.

## How long will I be here?

Your responsible clinician will tell you when they think you are well enough to leave hospital. They will then ask the Secretary of State for Justice to agree. Until the Secretary of State has agreed, you cannot leave the hospital. If you try to leave the staff can stop you, and if you do leave, you can be brought back.

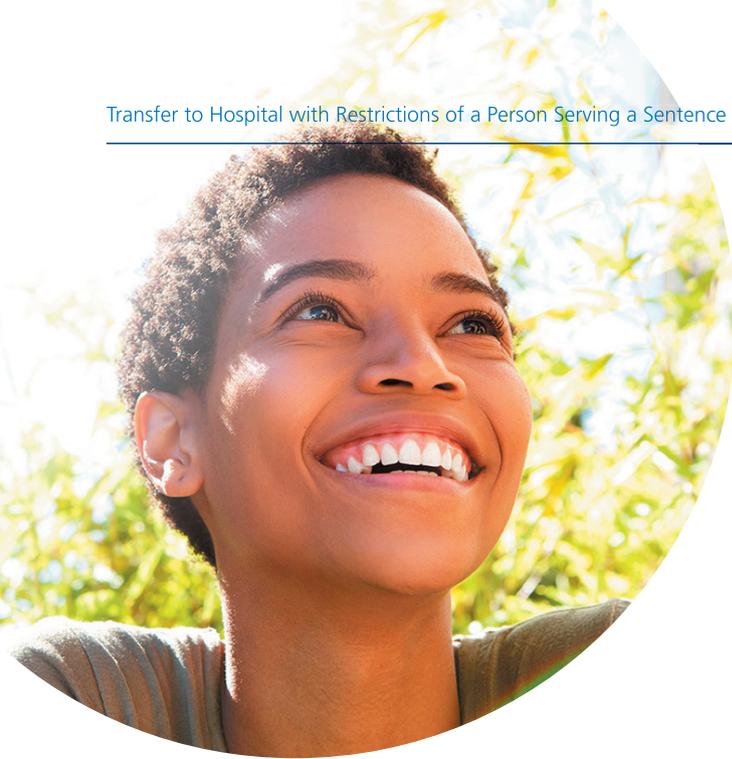
## What happens if my sentence ends while I am in hospital?

If your sentence ends while you are in hospital and you still need treatment, you can be kept in hospital. Your responsible clinician will tell you when you are ready to leave. If your responsible clinician decides you should stay in hospital, you will be given another leaflet telling you what will happen.



## Can I appeal?

Yes. You can ask a Tribunal to say that you should not be kept in hospital.



## What is a Tribunal and what happens?

The Tribunal is an independent panel which can decide whether you should be allowed to leave the hospital. It will hold a meeting with you and with staff from the hospital who know you. This meeting is called a "hearing". You can ask someone else to come to the hearing to help you, if you want. Before the hearing, the members of the Tribunal will read reports from the hospital about you and your care. One of the members of the Tribunal will also come to talk to you.

## When can I apply to the Tribunal?

After your hospital order has been in place for six months, both you and your nearest relative can apply to the Tribunal once during the next six months. Both of you may apply once in each year that you are kept in hospital after that.

If you want to apply to the Tribunal you can write to:

The Tribunals Service  
PO BOX 8793  
5th Floor  
Leicester, LE1 8BN  
Tel. 0845 2232022

You can ask a solicitor to write to the Tribunal for you and help you at the hearing. The hospital and the Law Society have a list of solicitors who specialise in this. You will not have to pay for help from a solicitor with this. It is free of charge under the Legal Aid scheme.

## What happens if the Tribunal says I should not be kept in hospital?

If the Tribunal says you should not be kept in hospital, the Secretary of State for Justice is unlikely to agree to your release before you have served your sentence. You are likely to be returned to prison to serve the rest of your sentence, unless the Tribunal has recommended you stay in hospital instead.

## What treatment will I be given?

Your responsible clinician and other hospital staff will talk to you about any treatment that you need for your mental disorder. In most cases you will have to accept their advice.

After three months, there are special rules about any medicine or drugs you are being given for your mental disorder. If you do not want the medicine or drugs, or are too ill to say whether you want them, a doctor who is not from this hospital will visit you. This independent doctor will talk to you and to staff at the hospital who know you. The independent doctor will decide what medicine and drugs you can be given. Unless it is an emergency, these are the only medicine and drugs you can be given without your agreement.

This independent doctor is called a SOAD (Second Opinion Appointed Doctor) and is appointed by an independent Commission which monitors how the Mental Health Act is used.

There are different rules for some special treatments, like electro-convulsive therapy (ECT). If the staff think you need one of these special treatments, the rules will be explained to you and you will be given another leaflet.

## Help from an independent mental health advocate

You are entitled to help from an independent mental health advocate if you want it. These advocates are independent of people involved in your care. They can help you get information about your care and treatment, why you are being kept in hospital, what it means and what your rights are. They can come to see you and help you understand what you are told by people involved in your care and treatment. If you want, they can help you talk to these people or they can talk to them for you. They can also help you with the Tribunal.

You can contact the independent mental health advocacy service yourself. There should be a telephone where you can contact the advocacy service and talk to them in private. You can ask a member of staff where this telephone is.

If you do not want to contact the advocacy service yourself, you can ask a member of staff to contact the advocacy service for you.

## Your letters

All letters sent to you will be given to you. You can send letters to anyone except someone who has said they do not want to get letters from you. Letters to these people can be stopped by the hospital staff.

## Code of Practice

There is a Code of Practice that gives advice to the staff in the hospital about the Mental Health Act and treating people for mental disorder. The staff have to consider what the Code says when they take decisions about your care. You can ask to see a copy of the Code, if you want.

## How do I complain?

If you want to complain about anything to do with your care and treatment in hospital, please speak to a member of staff. They may be able to sort the matter out. They can also give you information about the hospital's complaints procedure, which you can use to try to sort out your complaint locally. They can also tell you about any other people who can help you make a complaint, for example an independent mental health advocate (see above).

If you do not feel that the hospital complaints procedure can help you, you can complain to an independent Commission. This is called the Care Quality Commission and it monitors how the Mental Health Act is used, to make sure it is used correctly and that patients are cared for properly while they are in hospital. The hospital staff can give you a leaflet explaining how to contact the Commission.

## Further help and information

If there is anything you do not understand about your care and treatment, a member of staff will try to help you. Please ask a member of staff to explain if there is anything in this leaflet you do not understand or if you have other questions that this leaflet has not answered.

Please ask if you would like a printed copy of this leaflet.



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