



## Mental Health Law Briefing 145

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### Guidance on Restricted Patients

Earlier this year the Ministry of Justice produced Guidance on various aspects of the care of restricted patients. The Guidance covers the following:

#### 1. Leave of Absence for Patients subject to restrictions

Guidance is provided for Responsible Clinicians on leave arrangements for restricted patients. It deals with the requirements to obtain consent from the Ministry of Justice and explains the Ministry's approach. It confirms in particular that leave will not be agreed to Scotland as this is out of the jurisdiction (and therefore there is no power to retake patients if they abscond).

#### 2. Foreign National Restricted Patients

Patients may be dealt with more effectively in their country of origin in some cases and the Guidance assists on the approach to take.

#### 3. Duties to Victims under the Domestic Crime and Victims Act 2004

The Guidance details the new victim provision and in particular the implications for clinicians. The 2004 Act does not place any statutory authority on clinicians to disclose information to victims but there are obligations on the Probation Board, Justice Secretary and First Tier Tribunal - Mental Health.

#### 4. The Recall of Conditionally Discharged Restricted Patients

The Guidance provides a detailed explanation of the policy adopted by the Ministry of Justice on recalls.

#### 5. Guidance for Clinical Supervisors

The Guidance notes are intended to assist clinicians who take on the role of clinical supervisors for a restricted patient subject to a conditional discharge i.e a person who, having been made subject to the special restrictions set out in Section 41 of the Mental Health Act, is conditionally discharged from hospital either with the agreement of the Secretary of State or by the First Tier Tribunal - Mental Health. The notes cover the procedures to follow before the patient leaves hospital, the responsibilities of those involved after discharge and the action to be taken in some of the circumstances which may arise whilst the patient is in the community.

**Andrew Parsons**

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## Further Information

For further information on this or any other mental health issue, please contact Andrew Parsons in our Health department.

t: 020 7222 7282

e: [andrew.parsons@rlb-law.com](mailto:andrew.parsons@rlb-law.com)



### Disclaimer

Readers are advised to take specific advice before acting in reliance on the matters set out in this briefing.

Future editions can be received by email. Please email [marketing@rlb-law.com](mailto:marketing@rlb-law.com) or telephone 020 7227 7388.

For further information please contact the head of our Healthcare Department, Andrew Parsons, for further information: [andrew.parsons@rlb-law.com](mailto:andrew.parsons@rlb-law.com), 020 7222 7282

**LONDON:** 5 Great College Street, Westminster, London, SW1P 3SJ, Tel +44 (0)20 7222 7040, Fax +44 (0)20 7222 6208

**LEEDS:** 6-7 Park Place, Leeds, LS1 2RU, Tel +44 (0)113 234 1220, Fax +44 (0)113 234 1573

**CARDIFF:** 25 Park Place, Cardiff, CF10 3BA, Tel +44 (0)29 2034 3035, Fax +44 (0)29 2034 3045