



Ministry  
of Justice

# **Restricted Patients 2016 England and Wales**

Ministry of Justice  
Statistics Bulletin

27 April 2017

## **Introduction**

A mentally disordered offender may be diverted from the criminal justice system to hospital for treatment by a court under the Mental Health Act 1983. Prisoners may similarly be transferred from prison to hospital or ordered to receive treatment before completing a custodial sentence.

An offender can become a restricted patient by a number of routes.

An offender<sup>1</sup> may be ordered by a court to receive hospital treatment as a restricted patient both as well as or instead of a prison sentence.

While in prison, an offender can subsequently be transferred to hospital from prison as a restricted patient by the Secretary of State.

In addition, individuals may also become a restricted patient where they are found by a court to be unfit to plead or found not guilty by reason of insanity.

Discharge refers to restricted patients released into the community, either as a conditional or absolute discharge. Those receiving a conditional discharge continue to receive treatment in the community, remain liable to for detention in hospital and may be recalled to hospital by the Secretary of State.

Discharges could be ordered by either the Secretary of State for Justice, the First-Tier Tribunal (Mental Health) in England or the Mental Health Tribunal for Wales (which are independent judicial bodies with discharge powers separate from those of the Secretary of State).

Disposals are all other outcomes for, and movements of mentally disordered offenders (e.g. return to prison custody) other than (i) discharges and (ii) transfers to another hospital in England and Wales.

For those prisoners transferred to hospital who are serving a determinate prison sentence, the restrictions attached to the Secretary of State transfer direction will cease on the earliest date of release. If they still require treatment in hospital, they will remain detained as unrestricted patients and not subject to the management of the Secretary of State for Justice.

## **Legislative Framework**

The key legislation affecting this bulletin is the Mental Health Act 1959, the Mental Health Act 1983, as amended by the Mental Health Act 2007 and the Criminal Procedure (Insanity) Act 1964 as amended by the Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 and the Domestic Violence, Crime and Victims Act 2004 (which came into force on 31 March 2005). The 1959 Act was amended by the Mental Health (Amendment) Act 1982 and was then consolidated by the 1983 Act which was largely

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<sup>1</sup> Including untried and unsentenced offenders

implemented on 30 September 1983. The provisions of the two Mental Health Acts are similar and references below are to the 1983 Act only. In terms of admissions, the 1983 Act provides for:

- i. the diversion to hospital by the courts of convicted offenders who satisfy certain conditions (sections 37(1) & (2)) by making a hospital order. This may be with or without a restriction order under section 41, which has the effect of requiring the Secretary of State's consent on all matters relating to leave of absence, transfer or discharge, except where the Tribunal orders discharge;
- ii. the admission of an unconvicted offender to hospital by the magistrates' courts where they are satisfied that the person concerned meets the criteria for admission and has done the act or made the omission with which charged (section 37(3));
- iii. the imposition of a hospital order on unsentenced prisoners in their absence and without conviction for an offence (section 51(5));
- iv. the recall to hospital, by order of the Secretary of State, of patients subject to restriction orders who were conditionally discharged (section 42(3));
- v. the court to impose a prison sentence on a convicted offender together with a direction for immediate admission to hospital, subject to restrictions (hospital and limitation direction under section 45A);
- vi. the transfer to hospital, by order of the Secretary of State, of prisoners serving a sentence of imprisonment (section 47). Under section 49 these patients can be made subject to a restriction direction, which has the same effect as a restriction order under section 41;
- vii. the transfer to hospital, by order of the Secretary of State, of an unsentenced or untried defendant in criminal proceedings who is held in a Prison Service establishment (section 48). In this case a restriction direction is mandatory. Civil prisoners and persons detained under the Immigration Act 1971 or under the Nationality, Immigration and Asylum Act 2002, may also be admitted under this section, but restrictions are not mandatory;
- viii. the transfer of patients from one part of the United Kingdom, Channel Islands or the Isle of Man to another. Those transferred to England and Wales are treated as if they had been admitted to hospital under the Act, so that some of them will, in effect, be subject to restricted hospital orders (part VI).

Section 2 of the Trial of Lunatics Act 1883 enables juries to return a verdict of acquittal on grounds of insanity, and Section 4 of the Criminal Procedure (Insanity) Act 1964, as substituted by Section 2 of the Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 and amended by section 22 of the Domestic Violence, Crime and Victims Act 2004 enables the court without a jury to find a defendant unfit to plead. The 2004 Act also gives courts a range of disposal options ranging from a hospital order with restrictions to an absolute discharge.

In relation to disposals and discharges the Mental Health Act 1983 provides for:

- i. the removal of a restriction order by the Secretary of State so that the hospital order continues unrestricted (section 42(1));
- ii. the discharge of a patient with a restriction order, either conditionally or absolutely, by the Secretary of State, and the termination of the restriction order where discharge is absolute (section 42(2));
- iii. the return to prison of sentenced prisoners (section 50(1)a);
- iv. the return of unsentenced prisoners to prison to await court action where the Secretary of State or the court is satisfied that they no longer require treatment or no effective treatment is available (sections 51(3) & (4) respectively);
- v. the transfer direction ceases to have effect in respect of untried prisoners at the end of their remand period, unless they are subject to further remand or committal for trial (section 52(2));
- vi. the direction or recommendation by the First-tier Tribunal (Mental Health) or Mental Health Review Tribunal for Wales, of the discharge of a patient either conditionally or absolutely (sections 72-74);
- vii. the absolute discharge by the First-tier Tribunal (Mental Health) or Mental Health Review Tribunal for Wales of a conditionally discharged patient (section 75).

## Users and uses of these Statistics

The contents of the report will be of interest to the public, the media, agencies responsible for offender management at both national and local levels, government policy makers and others who want to understand more about Multi-Agency Public Protection Arrangement (MAPPA) eligible offenders, including registered sex offenders, the use of restrictive orders and serious further offences.

The statistics included in this publication meet a broad spectrum of user needs as shown below.

User	Summary of main statistical needs
MOJ Ministers	Use the statistics to monitor the offender caseload and the use of some restrictive orders.
MPs and House of Lords	Statistics are used to answer parliamentary questions.
Policy teams	Statistics are used to inform policy development, to monitor impact of changes over time and to model future changes and their impact on the system
Agencies responsible for offender management	Current and historical robust administrative data are used to support performance management information at national and local levels to complement their understanding of the current picture and trends over time
Academia, students and businesses	Used as a source of statistics for research purposes and to support lectures, presentations and conferences
Journalists	Used as a compendium of robust data on Restricted Patients so that an accurate and coherent story can be told on this subset of the offender population.
Voluntary sector	Data are used to monitor trends of Restricted Patients, to reuse the data in their own briefing and research papers and to inform policy work and responses to consultations.
General public	Data are used to respond to ad-hoc requests and requests made under the Freedom of Information Act.

## Related publications

**Offender Management Statistics Quarterly Bulletin<sup>2</sup>:** This bulletin provides key statistics relating to offenders who are in prison or under Probation Service supervision. It covers flows into these services (receptions into prison or probation starts) and flows out (releases from prison or probation terminations) as well as the caseload of both services at specific points in time.

**Re-offending bulletin<sup>3</sup>:** This report provides key statistics on proven re-offending in England and Wales. It gives proven re-offending figures for offenders who were released from custody, received a non-custodial conviction at court, received a caution, reprimand, warning or tested positive for opiates or cocaine.

In both cases, these reports will enable comparability with those offenders in and released from prisons.

**MAPPA Annual Report<sup>4</sup>:** This report provides key statistics relating to offenders who are managed by Multi-Agency Public Protection Arrangements (MAPPA). These are a set of statutory arrangements to assess and manage the risk posed by certain sexual and violent offenders and involves Police, Probation and Prison Services.

## Release Schedule

This bulletin was published on 27 April 2017 and includes calendar year statistics for the year 2016.

The next publication of Restricted Patients Bulletin is scheduled to be published in April 2018.

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<sup>2</sup> Offender Management Statistics: <https://www.gov.uk/government/collections/offender-management-statistics-quarterly>

<sup>3</sup> Proven re-offending statistics: <https://www.gov.uk/government/organisations/ministry-of-justice/series/proven-reoffending-statistics>

<sup>4</sup> MAPPA Annual Report: <https://www.gov.uk/government/collections/multi-agency-public-protection-arrangements-mappa-annual-reports>

## **Definitions**

### **Admission**

The admittance of an offender to secure hospitals as determined by the sentencing court or Safer Custody & Public Protection Group (SCPPG) on behalf of the Secretary of State for Justice and/or where a patient's legal category changes. In some cases, a patient may appear to have been admitted or discharged more than once within a given year, although he/she may not have physically moved. In particular, patients transferred from prison to hospital while unsentenced or untried can reappear in the figures as admitted under restricted hospital orders. Transfers between hospitals in England and Wales are not counted as separate admissions, unless the patient's legal category also changes.

### **Conditional Discharge**

Release into the community but patient remains liable to detention in hospital and may be recalled by the Secretary of State for Justice.

### **Discharge**

Release from hospital into the community.

### **Disposal**

Leaving treatment as a restricted patient other than as a discharge or a transfer to another hospital in England and Wales.

### **High secure hospital**

High secure hospitals hold patients detained under mental health legislation, who require treatment under conditions of high security because of their dangerous, violent or criminal propensities. There are three high secure hospitals, Ashworth, Broadmoor and Rampton.

### **Other Hospitals**

Other hospital refers to any psychiatric hospital in England and Wales, which provides secure mental health services. These include 'medium secure' and 'low secure' hospitals and they admit other patients requiring mental health treatment as well as mentally disordered offenders.

### **Restricted patient**

A mentally disordered offender (MDO) subject to a restriction order due to the risk of serious harm they pose to others and liable to a hospital order. They cannot be transferred between hospitals, discharged or allowed leave without consent of the Secretary of State for Justice. The First-tier Tribunal (Mental Health) can also discharge restricted patients if they conclude that the criteria for detention in hospital under the Mental Health Act 1983 is no longer met.

## **Data sources, quality and revisions**

Information on Restricted Patients was obtained from the Public Protection Unit Database (PPUD) administered by the Mental Health Casework Section within the Safer Custody & Public Protection Group of Her Majesty's Prison and Probation Service (HMPPS). (HMPPS was previously known as NOMS.)

## **Explanatory notes**

### **Symbols and conventions**

The following symbols have been used throughout the tables in this bulletin:

- = Not applicable
- 0 = Nil
- .. = Not available
- (r) = Revised data
- (p) = Provisional data
- == = Discontinuity in the series

## Contact points for further information

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