

Health Service Circular

Series number: **HSC 1999/160**
Issue date: **23rd July 1999**
Review date: **23rd July 2000**
Category: **Mental Health Services**
Status: **Direction**

The Secretary of State has powers under a number of provisions in the primary legislation relating to the NHS to give directions to Health Authorities, Special Health Authorities and NHS Trusts. These are legally binding and must be complied with by the recipient. They may be addressed to only one body, or a number of bodies, or all bodies falling within a particular category (such as all Health Authorities).

VISITS BY CHILDREN TO ASHWORTH, BROADMOOR AND RAMPTON HOSPITALS DIRECTIONS

NATIONAL HEALTH SERVICE ACT 1977

To: The Ashworth, Broadmoor and Rampton Hospital Authorities

Cc: Health Authorities (England) – Chief Executive
NHS Trusts – Chairman
NHS Trusts – Chief Executives
The Chief Executive
County Councils) England
Metropolitan District Councils)
Shire Unitary Authorities)
London Borough Councils
Common Council of the City of London
Council of the Isles of Scilly
The Director of Social Services
Area Children Protection Committees Chairs

Further details from: Mike Preston
High Security Psychiatric Services Team
40 Eastbourne Terrace
London
W2 3QR
0207 725 5628

Additional copies of this document can be obtained from:

Department of Health
PO Box 777
London
Se1 6XH
Tel. 0541 555455 or
Fax 01623 724 524

Current circulars are now listed on the Department of Health web site on the Internet at:
www.open.gov.uk/doh/dhhome.htm

© Crown copyright 1999. This Circular may be freely reproduced by all to whom it is addressed.

VISITS BY CHILDREN TO ASHWORTH, BROADMOOR AND RAMPTON HOSPITALS DIRECTIONS

NATIONAL HEALTH SERVICE ACT 1977

Summary

This Circular covers Directions and associated guidance to Ashworth, Broadmoor and Rampton Hospital Authorities ("hospitals") on visits by children to patients in these hospitals. From 1 September 1999, a hospital may not allow a child to visit any patient in the hospital unless the hospital authority has approved the child's visit in accordance with the Directions in Part A of this Circular and in particular is satisfied that the visit is in the child's best interests. The only exception to this is where there is a contact order made under the Children Act 1989 which specifies that the child may visit the patient in the special hospital. In such cases, visits should be allowed except where there are concerns about the patient's mental state at the time of the proposed visit such that the nominated officer decides the visit would not be in the child's best interests.

In the case of patients convicted of murder or manslaughter or an offence listed in Schedule 1 to the Sex Offenders Act 1997 or who have been found unfit to be tried, or not guilty by reason of insanity, in respect of a charge of murder or manslaughter or a Schedule 1 offence, the child must be within the permitted categories of relationship as set out in paragraph 2(2)(b) of the Directions. If the child does not satisfy the relationship criteria, the hospital must refuse the request for a visit.

Action

The hospitals are required to ensure that from **1 September 1999** visits by children only take place in accordance with these Directions in Part A and the guidance in Part B of this Circular.

By **1 September 1999**, the hospitals are required to have ensured:

- a senior manager has been nominated to be responsible for overseeing the process of dealing with requests for a child to visit a patient, for deciding whether to approve the visit and, if approved, for ensuring the arrangements required by the Directions are put in place;
- procedures are in place outlining the mechanisms for dealing with requests for children to visit consistent with these Directions and guidance and agreed with the local social services authority and Area Child Protection Committee;
- staff are aware of the provisions of the Directions and guidance and a programme of training is in place to support the dissemination of the procedures;
- the necessary complaints procedure, consistent with the hospital's overall complaints procedure, has been devised;
- a system has been set up to monitor the implementation of the Directions and guidance.

Associated Documentation

Local Authority Circular LAC(99)23 refers to the specific tasks to be undertaken by local social service authorities in receipt of a request from the hospital for advice on whether it is in the best interests of a child to visit a named patient. It is issued as statutory guidance under Section 7 of the Local Authority Social Services Act 1970.

This Circular has been issued by:

Dr Sheila Adam
Director of Health Services

PART A

VISITS BY CHILDREN TO ASHWORTH, BROADMOOR AND RAMPTON HOSPITALS

DIRECTIONS

The Secretary of State for Health, in exercise of the powers conferred upon him by section 17 of the National Health Service Act 1977^a and all other powers enabling him in that behalf, hereby gives the following Directions:-

Citation, commencement and interpretation

1.-(1) These Directions may be cited as the Visits by Children to Ashworth, Broadmoor and Rampton Hospitals Directions and shall come into force on 1 September 1999.

(2) In these Directions -

"Chief Executive" means the chief executive of a hospital authority and includes that person's deputy;

"child" means a person under the age of eighteen;

"clinical team" means the multi-disciplinary team of members of staff involved with a patient's treatment, including the responsible medical officer in charge of the patient's treatment;

"hospital authority" means a Special Health Authority established by the Authorities for Ashworth, Broadmoor and Rampton Hospitals (Establishment and Constitution) Order 1996 b;

"nominated officer" means the officer nominated pursuant to paragraph 3(1)(a) of these Directions;

"parental responsibility" has the same meaning as in the Children Act 1989^c;

"relevant local social services authority" means the local social services authority in whose area the child resides;

"Schedule 1 offence" means an offence listed in Schedule 1 to the Sex Offenders Act 1997^d;

"the 17th September Directions" means the Directions about child visits to special hospitals given to the hospital authorities by letter dated 17th September 1998;

"special hospital" means the special hospital known as Ashworth Hospital, Broadmoor Hospital or Rampton Hospital, as the case may be^e; and

"ward area" includes the day rooms, patient bedrooms and any other rooms or areas

^a 1977 c.49; section 17 as substituted by section 2(1) of, and paragraph 8 of Schedule 1 to, the Health Authorities Act 1995 (c.17).

^b S.I. 1996/488.

^c 1989 (c.41); see section 3.

^d 1997 (c.51).

^e See section 4 of the National Health Service Act 1977 (c.49).

including garden areas in the residential part of hospital premises to which patients have access as a matter of course.

(3) In these Directions, a reference to a numbered paragraph is a reference to the paragraph bearing that number in these Directions and a reference in a paragraph to a numbered sub-paragraph is a reference to the sub-paragraph bearing that number in that paragraph.

Visits

2.(1) A hospital authority shall only permit a patient in a special hospital to receive a visit from a child in accordance with these Directions.

- (2) A hospital authority shall not permit a patient to receive a visit from a child unless -
- (a) the authority has approved the child's visit in accordance with these Directions, and
 - (b) in the case of a patient who has a conviction for murder or manslaughter or a Schedule 1 offence or who has been found unfit to be tried, or not guilty by reason of insanity, in respect of a charge of murder or manslaughter or a Schedule 1 offence, the patient -
 - (i) is the parent or relative of that child; or
 - (ii) has parental responsibility for that child; or
 - (iii) was cohabiting with the parent of that child immediately prior to their detention under the Mental Health Act 1983^f and the child was treated as a member of their household.

(3) In sub-paragraph (2) "parent" means the mother or father, the adoptive mother or father or the stepmother or stepfather of the child, and "relative" means a grandparent, brother, sister, uncle or aunt or cousin related to that child by blood (including half-blood) or marriage.

(4) Sub-paragraph (2) does not apply where an order made under the Children Act 1989 specifies that the child may visit the patient in the special hospital.

Procedure for deciding on requests for visits

3.-(1) A hospital authority must -

- (a) nominate a senior manager in the special hospital who is to be responsible for overseeing the process of dealing with any request for permission for a child to visit a patient and for deciding whether to approve the visit; and
- (b) ensure that the nominated officer discharges his responsibilities in accordance with these Directions.

(2) Any request for permission for a child to visit a patient in a special hospital must be made in writing by the patient and must be forwarded to the nominated officer.

(3) Save in a case to which sub-paragraph (11) or (12) or (14) applies, the procedure set out in sub-paragraphs (4) to (10) shall apply.

^f 1983 c.20.

(4) The nominated officer must arrange for the patient's clinical team to carry out an assessment as to whether, in their view, it would be appropriate for the visit to take place having regard to the patient's offending history (if any), their clinical history and present mental state and, in the event that a visit is recommended, any particular arrangements which would need to be made for a visit by that child to take place safely.

(5) Where following the assessment referred to in sub-paragraph (4) -

- (a) the nominated officer is satisfied that it would not be appropriate for the child to visit the patient, he must refuse the request for a visit, and
- (b) in any other case, the nominated officer must seek the advice of the relevant local social services authority as to whether it is in the best interests of the child to visit the patient and must send with that request for advice a copy of the assessment referred to in sub-paragraph (4).

(6) Subject to paragraph (7), on receipt of the advice from the relevant local social services authority, the nominated officer must decide whether to approve the visit having regard to that advice, the assessment referred to in sub-paragraph (4) and any other relevant information he has.

(7) The nominated officer may not approve a visit in any case where the advice from the relevant local social services authority is that it is not or may not be in the best interests of the child to visit the patient.

(8) In a case where the relevant local social services authority is unable to provide the advice mentioned in sub-paragraph (5)(b), the nominated officer -

- (a) must undertake such enquiries as he considers reasonable (including consultation with the child, if appropriate, and any person with parental responsibility, or caring, for the child) to enable him to assess, so far as possible, whether it is in the best interests of the child to visit the patient, and
- (b) must decide whether to approve the visit having regard to all available information including the assessment referred to in sub-paragraph (4).

(9) If no decision has been reached within six weeks of the date on which a request for a visit is received from a patient the nominated officer must inform the patient in writing of the reasons for the delay.

(10) The nominated officer must notify -

- (a) the patient,
- (b) the parent of the child and any other person with parental responsibility for the child or caring for child,
- (c) the child if he is of sufficient age and understanding, and
- (d) any relevant local social services authority,

of his decision and the reasons for that decision in writing.

(11) Subject to sub-paragraph (14), where the patient is a person described in paragraph 2(2)(b) and the child is not within the permitted categories of relationship set out in that paragraph, sub-paragraphs (4) to (8) shall not apply and the nominated officer must refuse the request for a visit and

notify the patient accordingly.

(12) Subject to sub-paragraphs (13) and (14), where the person with parental responsibility for the child, or in the case of a child subject to a care order the designated local authority in whose care the child is placed under section 31(1)(a) of the Children Act 1989, has not agreed the child may visit the patient, sub-paragraphs (4) to (8) shall not apply and the nominated officer must refuse the request for the visit and notify the patient accordingly.

(13) Save in the case of a child subject to a care order, where there is more than one person with parental responsibility for the child, it is the person with parental responsibility with whom the child is living who must agree to the visit.

(14) Subject to paragraph 4(3), in any case where an order made under the Children Act 1989 specifies that the child may visit the patient in the special hospital the nominated officer must allow the visit to take place.

4.-(1) Subject to sub-paragraph (3), any approval for the child to visit the patient shall be valid for a period of 12 months from the date on which it is given and may only be withdrawn in that period if the nominated officer is satisfied that there has been a relevant change of circumstances.

(2) If, after the period of 12 months referred to in sub-paragraph (1) has elapsed, the patient wishes to continue to have visits from the child, the nominated officer must review the permission in accordance with paragraph 3(3) to (8) and must notify the persons mentioned in paragraph 3(10) of his decision and the reasons for that decision in writing.

(3) Notwithstanding sub-paragraph (1), the nominated officer may at any time refuse to allow a visit to take place if there are concerns about the patient's mental state at the time of the proposed visit.

Complaints

5. A hospital authority must set up a procedure to enable a patient to make representations against any decision of the nominated officer not to approve a visit other than a refusal on the grounds set out in paragraph 3(11) or (12).

Visits in exceptional circumstances

6.-(1) In exceptional circumstances and subject to any guidance given by the Secretary of State, the Chief Executive may give his written authority for a patient to receive a visit from a child pending a full assessment in accordance with paragraph 3.

(2) Sub-paragraph (1) shall not apply where the patient is a person described in paragraph 2(2)(b) and the child is not within the permitted categories of relationship set out in that paragraph.

Arrangements to be put in place for visits

7.-(1) A hospital authority must ensure that-

- (a) during a visit the child has direct contact only with the patient for whom permission has been given for that child to visit,
- (b) subject to sub-paragraph (2), the child is accompanied by -
 - (i) a person with parental responsibility for him and with whom he is living, or
 - (ii) other person who is caring for him,

- (c) a visit takes place in an appropriate setting and not in the ward area, and
- (d) that there are sufficient staff of an appropriate grade and with requisite knowledge and understanding present to supervise a child's visit at all times.

(2) Sub-paragraph 1(b) shall not apply in the case of a child aged 16 or 17 where the nominated officer, having regard to the information he has received under paragraph 3, is satisfied that an unaccompanied visit is unlikely to prejudice the child's welfare.

Annual report to the hospital authority

8. The Chief Executive must submit an annual report to the hospital authority at the end of each financial year providing details of -

- (a) the number of patients visited by children in that year;
- (b) any special arrangements put in place to ensure the safety of those children whilst visiting patients, together with the Chief Executive's assessment of the appropriateness of such arrangements; and
- (c) the Chief Executive's assessment of the continuing adequacy of the arrangements put in place by the hospital authority to ensure the safety of children whilst visiting patients.

Transitional provisions

9.- (1) Subject to sub-paragraph (5), where, in accordance with the 17th September Directions, permission has been given for a child to visit a patient, the nominated officer must, within 6 months so far as is reasonably practicable, ensure that he reviews that permission in accordance with paragraphs 3(3) to (8) and must notify the persons mentioned in paragraph 3(10) of his decision and the reasons for that decision in writing.

(2) Paragraph 5 shall apply in relation to any decision made under sub-paragraph (1).

(3) Subject to sub-paragraphs (4) and (6), where, in accordance with the 17th September Directions, permission has been given for a child to visit a patient, that child may continue to visit that patient pending the review under sub-paragraph (1) and the consideration of any representations, if any, made under paragraph 5.

(4) Subject to sub-paragraph (5), where the patient is a person described in paragraph 2(2)(b) and the child is not within the permitted categories of relationship set out in that paragraph, sub-paragraph (1) shall not apply and the nominated officer must withdraw permission for the child to visit that patient immediately.

(5) Subject to sub-paragraph (6), sub-paragraphs (1) and (4) shall not apply in any case where an order made under the Children Act 1989 specifies that the child may visit the patient in the special hospital and in that event, the nominated officer must allow the visit to take place.

(6) Notwithstanding sub-paragraphs (3) and (5), the nominated officer may at any time refuse to allow a visit to take place if there are concerns about the patient's mental state at the time of the proposed visit.

Revocations

10. The 17th September Directions are hereby revoked.

Signed by authority of the Secretary of State for Health

Department of Health

Date: 23 July 1999

PART B

VISITS BY CHILDREN TO ASHWORTH, BROADMOOR AND RAMPTON HOSPITALS GUIDANCE

Summary

1. Directions governing visits by children to the special hospitals were given on 23 July 1999 to the Ashworth, Broadmoor and Rampton Hospital Authorities ("hospitals"). The Directions were made under Section 17 of the National Health Service Act 1977. The three hospitals to whom the Directions are given must comply with them.
2. In order to ensure the effective implementation of the Directions, this guidance outlines the specific tasks and responsibilities of the hospitals. It aims to:-
 - (i) explain the policy context in which the Directions were made;
 - (ii) provide detailed guidance on the intention of the Directions; and
 - (iii) provide guidance on the arrangements the hospitals will need to put in place to ensure the Directions are complied with.
3. The guidance must be read in conjunction with the Directions. The hospitals must ensure that in implementing the Directions, their Local Social Services Authority (SSD) is asked to assist hospital staff in this task.

Overarching Principles

4. The Department of Health has been working in collaboration with the three hospitals and the Association of Directors of Social Services (ADSS) to draw up a set of principles which will enable each hospital to put in place a comprehensive child welfare policy which includes child protection matters and which addresses agreed principles relating to the safety of children visiting patients. Consultation on the draft principles, Directions and guidance has taken place with the Chief Executives, High Security Psychiatric Services Team, Heads of Social Work Departments, Medical Directors and nursing officers and staff at the hospitals, together with ADSS, Local Government Association (LGA), NSPCC, the Law Society and Mind. The overarching principles agreed are:-
 - (i) the child's welfare is paramount and takes primacy over the interests of any and all adults;
 - (ii) the child's welfare should be safeguarded and promoted by all staff within the hospital; and
 - (iii) the child's contact with family members should be supported, whenever that contact is in the child's best interests.
5. The revised Mental Health Act 1983 Code of Practice published in March of this year states at paragraph 26.3:

"Hospitals should have written policies on the arrangements about the visiting of patients by children, which should be drawn up in consultation with local social services authorities. A visit by a child should only take place following a decision that such a visit would be in the child's best interests. Decisions to allow such visits should be regularly reviewed."

6. The interests of patients to receive visits therefore have to be balanced against the rights of children to have their welfare safeguarded and promoted. The Directions set out the circumstances in which children may visit patients. Visits by children may only take place

when a visit to a patient is in the child's best interests. The Directions also require that all visits by children only take place in appropriate settings and are properly supervised at all times. A child approved for visits in accordance with the Directions must be accompanied by a person with parental responsibility for him/her and with whom the child lives or another person with day to day care for the child. However, the nominated officer can allow a child aged 16 or 17 to visit unaccompanied by such a person if satisfied it is unlikely to prejudice the child's welfare.

7. Each hospital is required, as part of its child welfare policy, to have a set of child protection procedures in place which are consistent with the Children Act 1989, the Government inter-agency guidance on child protection *Working Together Under The Children Act 1989* and its local Area Child Protection Committee procedures. New guidance on inter-agency co-operation protection *Working Together To Safeguard Children* will be published later this year and each hospital will then need to ensure its procedures are consistent with this.

Criteria For Agreeing A Child Visit To A Special Hospital Patient

8. A hospital may not allow a child to visit any patient in the hospital unless the hospital authority has approved the child's visit in accordance with the Directions and in particular is satisfied that the visit is in the child's best interests. The only exception to this is where there is a contact order made under the Children Act 1989 which specifies that the child may visit the patient in the special hospital. In such cases, visits should be allowed unless there are concerns about a patient's mental state at the time of the visit such that the nominated officer decides a visit would not be in the child's best interests.

9. In the case of patients convicted of murder or manslaughter or an offence listed in Schedule 1 to the Sex Offenders Act 1997 (see Annex A) or who have been found unfit to be tried, or not guilty by reason of insanity, in respect of a charge of murder or manslaughter or a Schedule 1 offence, the child must be within the permitted categories of relationship as set out in paragraph 2(2)(b) of the Directions. If the child does not satisfy the relationship criteria, the hospital must refuse the request for a visit.

10. Those with parental responsibility for the child are required to give their consent in writing for the child to visit the patient. They should be asked to provide the hospital with correct, accurate information on the relationship between the child and patient. They should be asked to take account of the child's wishes and feelings in deciding whether to give their consent.

11. If more than one person has parental responsibility for the child, it is the person with parental responsibility with whom the child lives who is required to give their consent. If, however, the child is subject to a care order, it the designated local authority in whose care the child is placed, who is required to give consent. The local authority should consult with those persons who share parental responsibility before reaching a decision.

Nominated Officer

12. Paragraph 3(1)(a) of the Directions requires the hospital to nominate a senior manager in the hospital who is to be responsible for overseeing the process of dealing with any request for permission for a child to visit a patient and for deciding whether to approve the visit. This nominated officer should be directly accountable to the Chief Executive.

13. In parallel, the hospital may decide to set up a multi-disciplinary panel to assist and advise the nominated officer in carrying out his/her responsibilities and reaching decisions on applications. The hospital must ensure contingency arrangements are put in place to cover adequately the nominated officer during periods of annual leave, sickness or other periods of absence.

Complaints Procedure

14. Each hospital is required to operate a formal system for considering representations about any decision not to allow a child to visit - paragraph 5 of the Directions. This system should be consistent with the hospital's overall complaints procedure and should contain an independent element. At least some of those considering representations should have relevant child care experience. Assistance and guidance on the use of the complaints procedure should be made available to patients. They may need assistance to make a complaint. There may be a role for an advocate from an independent agency to provide this help.

15. If the complaint concerns whether procedures were adhered to, the complaint will be dealt with through this process. If the complaint relates to the outcomes (i.e. a decision to refuse a visit) the complaint should also be dealt with through this procedure but the nominated officer must decide whether the SSD needs to be involved. If the SSD advice was to refuse the visit, the complaint should be copied to them to investigate via their Local Authority Complaints procedure. The SSD will be expected to share the outcome of their investigation with the hospital.

Records

16 The nominated officer must ensure that records relating to requests for visits by children are kept and that the hospital has a policy stating the purpose of and format for record keeping; this should cover the need to retain records for appropriate periods. The nominated officer must ensure that details of all visits by each child approved to visit a patient are recorded. Any decision and the reason for the decision must be recorded in writing.

Provision Of Information

17. The nominated officer must ensure that information is provided to patients and to parents and any other persons with parental responsibility for the child or caring for the child concerning the arrangements for visits by children to the hospitals. An information leaflet should be produced which details:-

- the child visits policy which meets the requirements of the Directions. It is important that the leaflet stresses the context for the policy i.e. that the safety of children visiting patients forms part of the hospital's comprehensive child welfare policy which includes child protection matters;
- the procedures for dealing with requests (as set out below);
- the role of SSDs in assessing whether a visit is in the best interests of a child and clarifying that information will need to be disclosed to and by the SSD;
- arrangements at the hospital for visitors;
- the requirement that all children approved for visits must be accompanied by the person with parental responsibility for the child and with whom the child lives or other person with day to day care for the child. However, a child aged 16 or 17 may visit unaccompanied if the nominated officer is satisfied that it is safe for them to do so;
- review procedures if a patient is refused permission for a child to visit;
- decisions to permit a child to visit are reviewed after one year using the same criteria as for the initial decision;
- the hospital reserves the right to refuse to allow a visit to take place, for example, if there are concerns about the patient's mental state at the time of the proposed visit.

18. The leaflet has an important role to play in assisting the hospitals and local social services authorities to work constructively with families and in ensuring that when making the

decision, the nominated officer takes account of all relevant information.

Procedure For Deciding On Requests For Visits

19. The procedure is intended to work as follows:

(a) The patient makes a request in writing for a child to visit. This request must be forwarded promptly to the nominated officer - **paragraph 3(2) of Directions**. Staff in the hospitals must be aware that some patients may require support in making a written application (either from their family or their clinical team). There may be a role for an advocate from an independent agency to provide this.

(b) If the patient is convicted of murder or manslaughter or an offence listed in Schedule 1 to the Sex Offenders Act 1997 (see Annex A) or has been found unfit to be tried, or not guilty by reason of insanity, in respect of a charge of murder or manslaughter or a Schedule 1 offence, the child must be within the permitted categories of relationship as set out in **paragraph 2(2)(b) of the Directions**. If it is clear from the written application that the child does not satisfy the relationship criteria, the nominated officer must refuse the visit - **paragraph 3(11) of Directions** refers. The nominated officer must notify the patient in writing of the decision and reasons for it. However, the patient has no right to make representations against this decision.

(c) If (b) does not apply, the nominated officer should obtain written permission from the patient to contact those with parental responsibility for the child. The nominated officer should then write to the person(s) with parental responsibility for the child explaining that a request for a visit has been made. The leaflet produced by the hospital should be enclosed. Those with parental responsibility should be asked to confirm the relationship between the patient and the child, and to state whether they agree to the child visiting the patient. It should be explained that the nominated officer is required to contact their SSD to ask them for advice on the child's best interests. This advice assists them to make a decision on whether the request for visits should be approved. If more than one person has parental responsibility for the child, it is the person with parental responsibility with whom the child lives who is required to give their consent.

(d) In the case of a child who is looked after by the local authority and subject to a care order (with parental responsibility shared by the local authority and the parent(s)), the designated SSD has responsibility for providing consent but their decision should be taken following consultation those with parental responsibility. Where a child is looked after by the local authority but not subject to a care order, the person with parental responsibility is required to give their consent.

(e) In the case of a child living with someone who does not have parental responsibility (e.g. the child lives with a grandparent), the nominated officer should write also to the person with day to day care for the child explaining that a request for a visit has been made and that the person with parental responsibility will be contacted as in (c) above.

(f) If the person(s) with parental responsibility responds to the nominated officer stating they do not agree to the child visiting the patient, the nominated officer must refuse the visit. The decision and the reasons for the decision must be put in writing to the patient.

(g) If those with parental responsibility state they are prepared to agree that their child

may visit the patient, the nominated officer should arrange for the patient's clinical team to undertake an assessment. This assessment is to judge the level of risk, if any, presented by him or her to children and to the particular child for whom the visit request has been made. Procedures for undertaking this type of assessment should be agreed with both the SSD and Area Child Protection Committee (ACPC) local to the hospital.

(h) If the hospital's assessment indicates that the patient's mental health state and/or risk to children is such (in the immediate or longer-term) that a visit would not be appropriate for the child to visit the patient, the nominated officer should refuse the request for the visit - **paragraph 3(5)(a) of Directions**. The decision to refuse the visit must be put in writing to the patient and the person with parental responsibility and include details of the complaints procedure.

(i) If the hospital's assessment does not rule out a visit on the grounds of (h) above, the nominated officer must in all cases contact the local SSD where the child resides, to seek their advice on whether it is in the best interests of the child involved to visit the patient - **paragraph 3(5)(b) of Directions**. The written request for this advice should be addressed to the Director of Social Services and include a copy of the hospital's assessment. The nominated officer must write again to the parents of the child to advise them that the SSD have been asked to make contact with the family. The nominated officer should share any relevant information about the patient with the SSD in the area in which the child resides, in order to assist the SSD to undertake its assessment of the child's best interests with regard to the proposed visits. If the nominated officer has knowledge of any other SSDs which have relevant information about the child or the child's family, this information should be shared also with the relevant local SSD.

(j) On receipt of the request from the hospital, if the request falls within the SSD's statutory responsibilities, the SSD should contact those with parental responsibility (and those caring for the child if they are different) to arrange to undertake an assessment. In relation to the proposed visit to the named patient, this assessment should establish:-

- the child's legal relationship with the named patient;
- the quality of the child's relationship with the named patient prior to hospitalisation, and currently;
- whether there has been past, alleged or confirmed abuse of the child by the patient;
- future risks of significant harm to the child if the visits took place;
- the child's wishes and feelings about the visit taking account of his age and understanding;
- the views of those with parental responsibility and, if different, person(s) with day to day care for the child;
- if it is known the child has lived in other SSD areas, what other relevant information is known about the child and family; and
- the frequency of contact that would be appropriate.

(k) Once the assessment has been completed the SSD should send a report to the nominated officer at the special hospital stating whether, in its opinion, the visit would be in the best interests of the child. The decision should take account of:

- the nature (for example, quality and duration) of the child's attachment to the patient;
- past abuse and/or risk of significant harm to the child from the named

- patient;
- the views of the child, taking account of his age and understanding, and of those with parental responsibility and, if different, person(s) with day to day care for the child;
- the opinions of professionals who have knowledge of the child;
- the hospital's assessment;
- is the visit, overall, in the child's best interests?

(l) If the person(s) with parental responsibility refuses to co-operate with the SSD assessment, the SSD should consider its legal position. If the child is known to the SSD, it could make its report on the basis of the information it has already but make it clear that the information is not up to date and does not take account of the wishes and feelings of the child. If the SSD holds no information about the child, it will be unable to make any report to the hospital. This information should be conveyed to the hospital.

(m) If the relevant SSD concludes that a visit is not or may not be in the child's best interests, the nominated officer must not allow the visit - **paragraph 3(7) of Directions**. The decision to refuse the visit must be put in writing to the patient, the child (if appropriate), those with parental responsibility, person(s) with day to day care for the child, if different, and the SSD. Details of the review procedure should be given. If the SSD advises that in their view a visit would be in the child's best interests, the nominated officer makes the decision following discussion with the SSD, in the light of shared information taking account of any potential risk posed by the patient, and the potential risk of significant harm being suffered by the child - **paragraph 3(6) of Directions**.

(n) Any visits by children must take place in appropriate settings and must be properly supervised - hospitals may require advice about what constitutes 'appropriate' and advice may be sought from the SSD local to the hospital. A child visiting a hospital may only have contact with the named patient for whom a visit has been approved. No children are to visit on the ward areas (as defined in the Directions). The areas where children visit are to be child-centred and child-friendly, taking account of the age of the children, whilst maintaining the required level of security. The nominated officer must ensure there are sufficient staff, of an appropriate grade and with requisite knowledge and understanding present to supervise the children's visits at all times and to prevent unauthorised contacts - **paragraph 7 of Directions**.

(o) The nominated officer must ensure that a child's contact with a patient within the hospital takes place at a frequency which is in the child's best interests, taking account of advice from the SSD. All visits by children shall be specifically authorised by the nominated officer.

(p) The nominated officer has the right to refuse a visit, for example, if there are concerns about the patient's mental state at the time of the visit - **paragraph 4(3) of Directions**. The reasons for the refusal should be explained to the patient, those with parental responsibility, person(s) with day to day care for the child, if different, and, if appropriate, the child.

19. The flow chart attached at Annex B details these processes for identifying whether the visit is in the child's best interests.

Visits In Exceptional Circumstances

20. Paragraph 6(1) of the Directions allows the Chief Executive of a hospital to allow a visit

from a child pending the full assessment, as outlined in paragraph 3 of the Directions, in exceptional circumstances, such as a new admission, serious illness, death or visitors from overseas. **Paragraph 6(2)** makes clear that this discretion does not apply to a patient described in **paragraph 2(2)(b)** of the Directions and the child does not fit the relationship criteria.

Child Welfare And Protection Policies And Procedures

21. The hospitals have responsibility for ensuring the safety and promoting the welfare of children in contact with high security hospital patients. To address this matter, Ashworth, Broadmoor and Rampton hospital should each have a child welfare policy which includes child protection matters and which addresses the overarching principles relating to children visiting the hospitals set out in paragraph 4 above.

22. The nominated officer for each hospital will work closely with the local SSD and ACPC in developing its child welfare and child protection policies and procedures. The hospitals should have agreed consistent procedures across the three sites. They should include the management of any information giving rise to concern about a child's welfare or protection which is disclosed to any member of the hospital staff during the course of their work. The procedures should make clear the lines of accountability for action by staff in relation to these concerns.

23. The hospitals should delegate responsibility to named senior managers for:-

- development and updating of policies, procedures and training programmes;
- the operation and dissemination of the child protection procedures;
- the delivery of a training programme to launch the child protection procedures; and
- a rolling programme of training to support the dissemination of the procedures which is monitored and reviewed over time.

24. Training in child protection procedures should be included in all induction programmes. Regular monitoring and review mechanisms should be developed to ensure that policies, procedures and practices adhere to the best contemporary standards in the field of child welfare and protection. In addition, staff who will come into contact with children in the course of their work should be in receipt of appropriate professional supervision.

25. Each hospital should ensure a system is put in place to audit the implementation of the Directions and Guidance. Reports should be submitted at least quarterly to the NHS Executive Regional Office. This is in addition to the requirement under **paragraph 8** of the Directions for the Chief Executive to submit an annual report to the hospital authority at the end of the financial year.

26. The hospital must ensure that the child welfare and child protection policies are embedded, where relevant, within all other hospital policies.

Monitoring And Review Of The Directions And Guidance

27. The NHS Executive Regional Offices and the Department of Health's Social Care Regions will be jointly responsible for the ongoing monitoring of the Directions and guidance. Details about this will be made known in due course. The operation of the Directions and Guidance will be reviewed by the Department of Health after one year from their date of issue.

Sex Offenders Act 1997**SCHEDULE 1****SEXUAL OFFENCES TO WHICH PART I APPLIES****Offences in England and Wales**

1. - (1) This Part of this Act applies to the following sexual offences under the law of England and Wales, namely-

(a) offences under the following provisions of the Sexual Offences Act 1956-

- (i) section 1 (rape);
- (ii) section 5 (intercourse with a girl under 13);
- (iii) section 6 (intercourse with a girl between 13 and 16);
- (iv) section 10 (incest by a man);
- (v) section 12 (buggery);
- (vi) section 13 (indecentcy between men);
- (vii) section 14 (indecent assault on a woman);
- (viii) section 15 (indecent assault on a man);
- (ix) section 16 (assault with intent to commit buggery);
- (x) section 28 (causing or encouraging prostitution of, intercourse with, or indecent assault on, girl under 16);

(b) an offence under section 1(1) of the Indecency with Children Act 1960 (indecent conduct towards young child);

(c) an offence under section 54 of the Criminal Law Act 1977 (inciting a girl under 16 to have incestuous sexual intercourse);

(d) an offence under section 1 of the Protection of Children Act 1978 (indecent photographs of children);

(e) an offence under section 170 of the Customs and Excise Management Act 1979 (penalty for fraudulent evasion of duty etc) in relation to goods prohibited to be imported under section 42 of the Customs Consolidation Act 1876 (prohibitions and restrictions); and

(f) an offence under section 160 of the Criminal Justice Act 1988 (possession of indecent photographs of children).

(2) In sub-paragraph (1) above-

(a) paragraph (a)(iii), (v) and (vi) does not apply where the offender was under 20;

(b) subject to sub-paragraph (3) below, paragraph (a)(iv) to (ix) does not apply where the victim of or, as the case may be, the other party to the offence was 18 or over; and

(c) paragraph (e) does not apply where the prohibited goods did not include indecent photographs of persons who were under the age of 16.

(3) Sub-paragraph (2)(b) above does not prevent the application of sub-paragraph (1)(a)(vii) or (viii) above in any case where, in respect of the offence or finding, the offender-

(a) is or has been sentenced to imprisonment for a term of 30 months or more; or

(b) is or has been admitted to a hospital subject to a restriction order.

(4) For the purposes of sub-paragraph (2)(c) above-

(a) section 7 of the Protection of Children Act 1978 (interpretation) shall apply as it applies for the purposes of that Act; and

(b) a person shall be taken to have been under the age of 16 at any time if it appears from the evidence as a whole that he was under that age at that time.

Offences in Scotland

2. - (1) This Part of this Act applies to the following sexual offences under the law of Scotland, namely-

(a) the following offences-

- (i) rape;
- (ii) clandestine injury to women;
- (iii) abduction of a woman or girl with intent to rape;
- (iv) assault with intent to rape or ravish;
- (v) indecent assault;
- (vi) lewd, indecent or libidinous behaviour or practices;
- (vii) shameless indecency; and
- (viii) sodomy;

(b) an offence under section 170 of the Customs and Excise Management Act 1979 (penalty for fraudulent evasion of duty etc) in relation to goods prohibited to be imported under section 42 of the Customs Consolidation Act 1876 (prohibitions and restrictions);

(c) offences under-

- (i) section 52 of the Civic Government (Scotland) Act 1982 (taking and distribution of indecent images of children); and
- (ii) section 52A of that Act (possession of indecent images of children);

(d) offences under the following provisions of the Criminal Law (Consolidation) (Scotland) Act 1995-

- (i) section 1 (incest);
- (ii) section 2 (intercourse with a step-child);
- (iii) section 3 (intercourse with child under 16 by person in position of trust);
- (iv) section 5 (unlawful intercourse with girl under 16);
- (v) section 6 (indecent behaviour towards girl between 12 and 16);
- (vi) section 8 (abduction of girl under 18 for purposes of unlawful intercourse);
- (vii) section 10 (person having parental responsibilities causing or encouraging sexual activity in relation to a girl under 16); and
- (viii) subsection (5) of section 13 (homosexual offences).

(2) In sub-paragraph (1) above-

(a) subject to sub-paragraph (3) below, paragraphs (a)(iii) to (v) and (vii) and (d)(i) and (ii) do not apply where every person involved in the offence other than the offender was 18 or over;

(b) paragraphs (a)(viii) and (d)(viii) above do not apply where every person involved in the offence, other than the offender, was 18 or over and was a willing participant;

(c) paragraph (b) does not apply where the prohibited goods did not include indecent photographs of persons who were under the age of 16;

(d) paragraph (a)(viii) does not apply where the offender was under 20 and every other person involved in the offence was a willing participant;

(e) paragraph (d)(iv) does not apply in the case of an offence in contravention of subsection (3) of section 5 (unlawful sexual intercourse with a girl over 13 but under 16) where the offender was under 20; and

(f) paragraph (d)(viii) does not apply where the offender was under 20 and-

- (i) where the offence involved an act of sodomy contrary to subsection (5) of section 13, every other person involved in the offence was a willing participant; or

(ii) the offence involved an act of gross indecency or shameless indecency contrary to the said subsection (5).

(3) Sub-paragraph (2)(a) above does not prevent the application of sub-paragraph (1)(a)(iii) to (v) above in any case where, in respect of the offence or finding, the offender-

(a) is or has been sentenced to imprisonment for a term of 30 months or more; or

(b) is or has been admitted to a hospital subject to a restriction order.

(4) For the purposes of sub-paragraph (2)(c) above-

(a) subsections (2) to (2C) and (8) of section 52 of the Civic Government (Scotland) Act 1982 shall apply as they apply for the purposes of that section; and

(b) a person shall be taken to have been under the age of 16 at any time if it appears from the evidence as a whole that he was under that age at that time.

Offences in Northern Ireland

3. - (1) This Part of this Act applies to the following sexual offences under the law of Northern Ireland, namely-

(a) an offence of rape;

(b) offences under-

(i) section 52 of the Offences against the Person Act 1861 (indecent assault upon a female person);

(ii) section 61 of that Act (buggery); and

(iii) section 62 of that Act (assault with intent to commit buggery or indecent assault upon a male person);

(c) offences under-

(i) section 4 of the Criminal Law Amendment Act 1885 of unlawful carnal knowledge of a girl under 14; and

(ii) section 5 of that Act of unlawful carnal knowledge of a girl under 17;

(d) an offence under section 11 of that Act (committing, or being party to the commission of, or procuring or attempting to procure the commission of, any act of gross indecency with another male);

(e) an offence under section 1 of the Punishment of Incest Act 1908 (incest by males);

(f) offences under-

(i) section 21 of the Children and Young Persons Act (Northern Ireland) 1968 (causing or encouraging seduction or prostitution of a girl under 17); and

(ii) section 22 of that Act (indecent conduct towards a child);

(g) an offence under Article 3 of the Protection of Children (Northern Ireland) Order 1978 (indecent photographs of children);

(h) an offence under section 170 of the Customs and Excise Management Act 1979 (penalty for fraudulent evasion of duty etc) in relation to goods prohibited to be imported under section 42 of the Customs Consolidation Act 1876 (prohibitions and restrictions);

(i) an offence under Article 9 of the Criminal Justice (Northern Ireland) Order 1980 (inciting girl under 16 to have incestuous sexual intercourse); and

(j) an offence under Article 15 of the Criminal Justice (Evidence, etc.) (Northern Ireland) Order 1988 (possession of indecent photographs of children).

(2) In sub-paragraph (1) above-

(a) paragraphs (b)(ii), (c)(ii) and (d) do not apply where the offender was under 20;

(b) subject to sub-paragraph (3) below, paragraphs (b), (d) and (e) do not apply where the victim of or, as the case may be, the other party to the offence was 18 or over; and

(c) paragraph (h) does not apply where the prohibited goods did not include indecent photographs of persons who were under the age of 16.

(3) Sub-paragraph (2)(b) above does not prevent the application of sub-paragraph (1)(b)(i), or sub-paragraph (b)(iii) above so far as relating to indecent assault on a male person, in any case where, in respect of the offence or finding, the offender-

(a) is or has been sentenced to imprisonment for a term of 30 months or more; or

(b) is or has been admitted to a hospital subject to a restriction order.

(4) For the purposes of sub-paragraph (2)(c) above-

(a) Article 2(2) and (3)(b) of the Protection of Children (Northern Ireland) Order 1978 (interpretation) shall apply as it applies for the purposes of that Act; and

(b) a person shall be taken to have been under the age of 16 at any time if it appears from the evidence as a whole that he was under that age at that time.

Offences under service law

4. This Part of this Act applies to an offence under-

(a) section 70 of the Army Act 1955;

(b) section 70 of the Air Force Act 1955; or

(c) section 42 of the Naval Discipline Act 1957,

of which the corresponding civil offence (within the meaning of that Act) is a sexual offence to which this Part of this Act applies by virtue of paragraph 1 above.

General

5. - (1) Any reference in paragraph 1(1), 2(1), 3(1) or 4 above to an offence includes-

(a) a reference to any attempt, conspiracy or incitement to commit that offence; and

(b) except in the case of a reference in paragraph 2(1)(a) above, a reference to aiding and abetting, counselling or procuring the commission of that offence.

(2) Any reference in paragraph 1(2), 2(2) or 3(2) above to a person's age is a reference to his age at the time of the offence.

VISITS BY CHILDREN TO SPECIAL HOSPITALS

