

## Chapter 17 Providing treatment and care in detention settings

### Contents

- **Doctors' duties in detention settings (pages 689-91)**
- **Practical issues common to various detention settings (pages 701-16)**
  - **Ensuring good communication with other health professionals (pages 703-4)**
  - **Minimising harm (pages 706-11)**
    - **Communicable diseases (pages 708-10)**
  - **The medical role in restraint and control (pages 711-13)**
    - **Restraint of detained patients in NHS facilities (page 712)**
- **Immigration removal centres (IRCs) (pages 724-8)**
- **Police stations and forensic physicians (pages 728-33)**
  - **Forensic physicians and consent (pages 729-31)**
    - **Acting without consent – Intimate body searches (page 730)**

### Doctors' duties in detention settings (pages 689-91)

Under the Health and Social Care Act 2012 (HSCA 2012), health care in all secure accommodation will be commissioned by a single organisation, the NHS Commissioning Board (NHSCB). The NHSCB will be responsible for planning, securing and monitoring a range of services for prisons, immigration removal centres, young offenders institutions, secure training centres, secure children's homes, police custody, court diversion services and sexual assault referral centres. The NHSCB will also be responsible for commissioning health services in all new establishments, including those run by private providers, and will seek to take on health commissioning responsibilities under existing contracts, as those contracts expire and are retendered.

In addition, the HSCA 2012 makes Clinical Commissioning Groups (CCGs) responsible for commissioning emergency care services and facilities (including ambulance, accident and emergency and 111 services) for any person present in the area, including those detained in secure accommodation.

### Practical issues common to various detention settings (pages 701-16)

#### Ensuring good communication with other health professionals (pages 703-4)

From 2012 'NHS Number' became available for use in all prisons in England. Although it is not mandated, the use of NHS Number has clear benefits. It can help ensure effective communication of health information, especially where an individual has complex health needs that require NHS treatment outside of prison and necessitate the transfer of information between prison health teams and hospital staff. NHS Number is intended to enable prison health teams to ensure patients have a single, detailed and continuous health care record, thereby promoting continuity of care, from a patient's arrival in prison through to transition back into the community. Further information is available at <http://www.connectingforhealth.nhs.uk/systemsandservices/offender/casestudies/number.pdf> (accessed 19 Aug 2013).



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### **Minimising harm (pages 706-11)** **Communicable diseases (pages 708-10)**

Public Health England is an executive agency of the Department of Health, and, from April 2013, incorporates the Health Protection Agency (HPA). The Prison Infection Prevention Team continues to be operated by the HPA.

### **The medical role in restraint and control (pages 711-13)** **Restraint of detained patients in NHS facilities (page 712)**

In July 2012, the High Court clarified when handcuffs should be used on detainees during hospital visits (*FGP v Serco* (2012) EWHC 1804 (Admin)). FGP was taken to hospital from an immigration removal centre four times between July 2010 and September 2010. On each occasion a risk assessment was carried out which concluded that the use of restraints at all times was necessary. This was due to FGP's history of violent offending, his risk of self-harm, the likelihood of him absconding, and the low level of security at the hospital. FGP was therefore escorted to hospital in handcuffs or closet chains and remained in the restraints during the visits.

Three out of four of the visits were completed within a day but one visit resulted in an eight-day in-patient stay. During that time FGP could not leave his bed without being handcuffed to an officer, including when he needed to use the toilet, shower or undress. He claimed Serco Plc had failed to consider the question of restraints properly and had therefore breached his rights under Article 3 (prevention of torture and inhuman or degrading treatment or punishment) and Article 8 (right to respect for private and family life) of the European Convention. FGP also claimed against the Home Secretary, stating that guidance on the use of restraints during hospital visits was imprecise, leading to an unacceptable risk that a breach of his human rights would occur.

It was held that the decision to restrain FGP during his hospital visits was justified given his history. The restraints applied during the three shorter hospital visits had not breached FGP's human rights. However, for the longer eight-day stay the court was concerned at the continued use of restraints. Serco had not considered whether FGP should be restrained during treatment, whether it was necessary to handcuff him to the bed while he slept, and whether the presence of officers in the room was needed instead of stationing them outside the door.

The court affirmed that there is a presumption that restraints will not be applied during medical treatment and that there should be no attendance by officers within earshot unless it is decided on proper grounds that such restraints or attendance were necessary. It was not the correct policy to continue to use restraints and attendance unless medical staff requested otherwise. By failing to consider these points and continuing to apply restraints when they were not necessary, Serco breached FGP's human rights during his longer hospital stay.

On the issue of the Secretary of State's policy, the court held that the policy could not be expected to go into great detail, and in any case Serco was primarily responsible for safeguarding the human rights of individuals under its control. While the court found that the policy could be criticised for not identifying clearly that there should be a presumption against restraints during treatment or consultation, that did not render the policy unlawful.

In light of this judgment, it is important for health professionals to be mindful of the fact that consultations and treatment are always confidential and there is a presumption against restraint or security staff being within earshot. If health care staff are concerned that restraint is disproportionate or is impacting adversely on a patient's care, they should raise this with Trust management.



**Immigration removal centres (IRCs) (pages 724-28)**

**Police stations and forensic physicians (pages 728-33)**

**Forensic physicians and consent (pages 729-31)**

**Acting without consent – Intimate body searches (page 730)**

Department of Health guidance on the medical care of suspected internal drug traffickers (SIDTs) is available at [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/216999/SIDT-Report-FINAL.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/216999/SIDT-Report-FINAL.pdf) (accessed 19 Aug 2013). This includes ethical considerations relating to the treatment of people who are identified and detained as SIDTs, such as issues of language and communication, confidentiality, consent and capacity.