USE OF HANDCUFFS

1. INTRODUCTION

Any intentional application of force to another person is assault. The use of handcuffs amounts to such an assault and is unlawful unless it can be justified. Justification is achieved through establishing not only a legal right to use handcuffs, but also good objective grounds for doing so being a reasonable, necessary and proportionate use of force. Legal powers to use reasonable force are derived from various sources:

- Section 3 Criminal Law Act 1967
- Section 117 Police and Criminal Evidence Act 1984
- Common Law (Breach of Peace)
- Common Law (Self Defence)

Where handcuffs are unjustifiably resorted to, their use will constitute a civil trespass: (Taylor (1895) 59JP, 393); (Bibby v Chief Constable of Essex (2000) 164JP, 297). It may also violate Articles 3 (degrading treatment) and 6 (the right to a fair trial and the presumption of innocence) of the ECHR.

The application of handcuffs is intrusive and may cause distress and embarrassment and should therefore be restricted to escorting high risk patients outside of the secure perimeter of the hospital and in the circumstances outlined below. Handcuffs should not ordinarily be used in the movement of a patient from one part of the hospital to another, or as part of control and restraint procedures. Exceptions to this may be considered (such as when moving a high risk patient to a higher level of security), but only as a last resort option in what should be considered an extreme circumstance and only after a thorough risk assessment has been completed.

This policy reflects:

- National Institute for Health and Clinical Excellence (NICE) 2005: The short term management of disturbed / violent behaviour in in-patient psychiatric settings and emergency departments
- Health Offender Partnerships 2007 Best Practice Guidance: Specification for Adult Medium Secure Services
- Crown Prosecution Service: Handcuffing of Defendants 2008
- Association Chief Police Officers England, Wales and Northern Ireland 2006: Guidance on the Use of Handcuffs
- Police Ombudsman for Northern Ireland 2008: Analysis of Complaints involving the Use of Handcuffs

This policy should be implemented within the context of the PiC Values:

- Valuing people – respecting our staff, patients, their families and communities
- Caring safely – for ourselves, our patients, our customers and communities
- Working together with everyone
- Uncompromising integrity, respect and honesty
- Taking quality to the highest level

2. AIMS

To inform staff about:

- The circumstances for the use of handcuffs
- The process of authorisation for the use of handcuffs
- The process of risk management of the use of handcuffs
- The documentation and reporting requirements
- The procedures for the safe application and use of handcuffs
- Types of handcuffs used
- Transport

3. CIRCUMSTANCES FOR USE OF HANDCUFFS

The use of handcuffs must always be considered where 'high risk' patients need to be escorted outside the hospital or in circumstances where a patient is to be returned to a hospital after an escape or absconding. These periods of leave (Section 17) should only be to or from Courts, high secure hospitals, returning patients to or from prison, police stations (collecting and returning patients after an escape or absconding) and general hospitals for medical emergencies or for important medical appointments. Very rarely a trip elsewhere on compassionate grounds may be considered, e.g. funeral of a spouse or child.

It should be remembered that a patient's presence may not necessarily be required in Court on the day of a hearing. Staff should check with the Court and/or the patient's solicitor to make sure that the patient's presence in Court is absolutely necessary.

Handcuffs should not ordinarily be used in the movement of a patient from one part of the hospital to another, or as part of control and restraint procedures. Exceptions to this may be considered (such as when moving a high risk patient to a higher level of security), but only as a last resort option in what should be considered an extreme circumstance and only after a thorough risk assessment has been completed.

If handcuffs are to be applied away from the hospital this should be planned and not a reactive strategy. They should only be applied within a safe, secure and private environment and not within public view e.g. within a secure part of a court.

4. WHAT PATIENTS ARE DEEMED 'HIGH RISK'?

- All prison transfer patients (Section 47 and 48)
- All un-sentenced / remand patients (Section 35, 36 and 38)
- All restricted patients for medical emergencies (Section 37 / 41)
- All violent or aggressive patients
- All detained patients who are considered at risk of absconding

5. AUTHORISATION

The decision to use handcuffs, the reason for their use, which includes a thorough risk assessment and escort plan for the trip, and any other instructions should be recorded in the patients clinical record by the Responsible Clinician (RC) or nominated deputy, and also on the authority for leave of absence and any associated risk assessment form.

It should be recorded whether the patient will be handcuffed before leaving the secure building, what type of handcuffs are to be used, whether handcuffs are to be carried by the escorts to apply later if and when necessary, or whether handcuffs are not considered necessary and will not be taken.

In emergencies, verbal permission may be given by the duty RC or nominated deputy or, in exceptional circumstances, by the Senior Nurse on call. This authorisation and the reason for the emergency use of handcuffs should be documented in the case notes as soon as possible by the Nurse in Charge.

6. RISK ASSESSMENT AND RISK MANAGEMENT

Whilst not an exhaustive list, the following issues should be considered in the risk assessment / management plan for the trip:

a) Patient Issues

- Patient's mental state
- Patient's physical state, particularly conditions or circumstances which will be relevant to the possible use of handcuffs (e.g. musculo-skeletal injuries, self inflicted wounds to wrists)
- Risk of violence or aggression to public, staff or patient
- Likely levels of co-operation
- Past and recent history of absconding
- Previous recommendations made from past escorted leave analysis
- Likelihood of engaging an accomplice to assist in absconding

b) Location

- Crown Court – All Crown Courts have secure access and arrangements must be made for the vehicle transporting the patient to have access to this area.
- Magistrates' Courts – Where possible these should be risk assessed prior to the visit. Some Magistrates' Courts have secure areas and / or secure parking and arrangements must be made to use these. Where facilities do not exist or the hearing is at such short notice that a risk assessment cannot be made, the decision to use handcuffs should err on the side of caution in favour of their use.
- The risk assessment of the Court would include the layout, exits, availability of waiting rooms and the ability to accommodate patients and escorts. This assessment should take place prior to the visit but if this is not possible, it may

be undertaken by one of the team on arrival whilst the patient remains in the vehicle.

- It should be understood by the escorting team that they are responsible for the patient until the patient is in a secure area before handing over to Court staff (most Courts insist that PiC staff look after the patient even in the cells). It is a decision for the Court as to whether or not a patient should remain handcuffed in the dock. If a patient is to be returned to hospital handcuffed, this must be done whilst they are still in a secure area.
- Prison – Apart from being a high risk category in themselves, it should be remembered that prisoners coming from the Isle of Wight present a particular risk as the journey involves a ferry crossing where passengers are required to leave the vehicle (although the ferry company recommend that you vacate the vehicle, this should be confirmed in advance as they may allow you to remain in the vehicle if the circumstances are explained). Similar considerations will apply for patients being transported from the Channel Islands and the Isle of Man.
- Hospitals – Where the trip to hospital is arranged, a member of the team should make a prior call to request specific accommodation which might reduce the risk of absconding, e.g. a single room with en-suite facilities or request for speedy service at Outpatients or the Accident and Emergency department.

c) Application of Handcuffs

- Where handcuffs are used they should be applied before the patient leaves the building. When handcuffs are used they should ideally be applied before the patient leaves the building (Secure unit, Court, Prison etc). There may be rare emergencies when they will have to be applied in other circumstances. The time applied must be noted along with the time removed. They should not be put on in vehicles or in car parks or pavements between vehicles and buildings.

In the event of a patient managing to abscond, the Nurse in Charge should have a list of people to contact and the order in which to do so. This will include Senior Management at PiC head office for information and in order to manage any press interest.

7. TRANSPORT

Where an ambulance is required for a medical emergency, it is unlikely that the patient will require handcuffing. For routine hospital visits and Court visits, hospital transport may be used. This decision will be based on the outcome of the risk assessment.

Ideally, vehicles should have a row of seats directly behind and with their backs to the driver and another row of seats facing these. A staff member should be sitting behind the driver (facing the rear of the vehicle) and the patient, with staff either side, should be seated opposite (facing forward). This configuration is to prevent any attempt of a handcuffed patient from trying to reach or attack the driver.

The numbers and mix of staff should be decided as part of the holistic risk assessment process however to best support the above noted configuration and staff handcuff training and practice there should be a minimum of three staff members in attendance.

If a vehicle with the above seating configuration is not available, then the patient and members of staff should be seated in the vehicle in accordance with the instructions given in their local Escorting Patients Policy.

There may be rare occasions when a patient is being transferred back to prison or to a maximum security hospital that the level of risk requires the use of a contracted-in secure vehicle.

The escorting team should have a mobile phone and the telephone numbers of the base hospital and destination to be visited in case of difficulties en route.

8. PATIENT INVOLVEMENT

The patient will be involved in the discussion about the likelihood and reasons for handcuffs being used and the process for their use. This should not be so far in advance as to allow the patient time to plan an absconding with an accomplice.

9. ISSUE OF HANDCUFFS

Only handcuffs issued by the Senior Nurse or the Senior Nurse on call are to be used. The Senior Nurse will maintain a written record of all handcuffs issued, the type of handcuffs used and the time the handcuffs are returned. Following usage, the Senior Nurse will check and record that the handcuffs and locking systems are in good working order. This to include the organisation of a thorough cleaning process after every use.

10. TYPES OF HANDCUFFS USED

Handcuffs must be of a type approved by the Management of Violence and Aggression Director for PiC. The two approved handcuffs types are the metal chain link handcuff and the Velcro handcuff.

The Velcro handcuffs are to be considered a least restrictive variant over the metal type cuff and as so should be treated as a less secure and less restrictive option.

Least restrictive however **should not** add to an increase in usage.

The Velcro handcuffs should only be considered for use if a metal type cuff is deemed inappropriate and if this has been thoroughly risk assessed against the individual patient, the situational factors (to include any travel or journey issues) and any environmental aspects.

The Velcro handcuffs should only be considered for use following written authorisation from the Responsible Clinician (RC) or nominated deputy and also on the authority for leave of absence and associated risk assessment forms. The RC must sign off and clarify the justification of Velcro handcuff use over the metal type variant on all occasions.

The same process when applying for use of the Velcro handcuff should be employed as for metal type cuffs,

The RC should in accordance with good practice contact the Ministry of Justice for any restricted patients to note reduced restriction when considering the application of the Velcro handcuffs over the metal type cuff.

11 STORAGE

Handcuffs must be stored in a secure place determined by the Senior Nurse of the hospital. The Senior Nurse will devise local procedures for the possession and access to handcuffs and the appropriate key or locking system and documentation for the possession and return of handcuffs.

12 ADVICE AND TRAINING

Guidance and training on the use of handcuffs will be offered by the Management of Violence and Aggression Director for PiC. Please see Appendix A – Guidelines on the Use of Handcuffs. ***Appendix A – Guidelines on the Use of Handcuffs***
Arrangements and instruction in the use of handcuffs will be offered as part of Management of Violence and Aggression training. Nurses applying the handcuffs must have had the appropriate training.

Only qualified and currently practicing MVA tutors will be trained as handcuff tutors within PiC. Tutors will be required to complete a one day recognised tutors course for the teaching of others in the safe procedures and application of handcuffs. Following this, tutors must attend a refresher course every two years. On completion of this course, names of qualified tutors will be entered on to a central register of trained personnel.

Identified staff members will be trained locally at each required PiC site in the safe use and application of handcuffs over a structured half day period. All staff trained in the use of handcuffs will be required to attend an annual half day update. Each site will be required to maintain an up to date list of locally based handcuff trained staff.

All staff members applying handcuffs must have had the appropriate training.

The approved method is that the patient's wrists are handcuffed together to the front. The patient's hands must not be handcuffed behind his/her back or to a rigid object. Inappropriate use of handcuffs can cause fractures to the bones in the wrist and/or nerve damage.

Metal handcuffs must be applied with the keyhole uppermost and, once fitted, they are to be double locked.

The nurse escort must apply the handcuffs and retain the key attached to the key strap.

Velcro handcuffs can be applied in the palm to palm or front stack positions and must be double locked on all occasions with the orange double locking system.

Both types of handcuffs must be periodically checked during the journey and the patient's wrists should be checked for movement and blood flow. For the Velcro handcuff it is advised that staff perform the capillary refill test on application and at regular interval throughout there use. Any removal of handcuffs during escort (other than under exceptional circumstances) will require to have been agreed by those involved in the initial discussion regarding plan for their use.

A doctor must examine the patient if there is a complaint of pain or injury to the wrist following the use of handcuffs and an incident report completed.

13. GUIDANCE FOR STAFF IF A PATIENT BECOMES AGGRESSIVE PRIOR TO ESCORT

In this eventuality, a full assessment involving the clinical team will be required. This must take account of the clinical need and urgency of the planned escort versus the degree of aggression evident. Where practicable, the escort should be deferred until the patient is suitably settled. 'Duty of care' towards the individual patient relevant to the ongoing circumstances should dictate such decisions.

Should deferment of the escort not be possible, then staff must ensure that:

- Appropriate authorisation has been sought and is documented in the patient's clinical record.
- Handcuffs will be applied to a struggling patient only once the arms have been immobilised in accordance with PiC Management of Violence and Aggression training.
- Handcuffs should be applied with the keyhole uppermost (metal handcuffs only) and a comfortable and secure fit must be ensured.
- During the movement, the patient should be constantly reassured and regular checks on his/her well-being made.

A serious incident report, including the reasons for the use of handcuffs must be submitted to the Senior Nurse.

A post incident discussion will take place with the multi-disciplinary team as soon as possible. A debrief of the patient will take place once suitably settled.