

THE STATE HOSPITALS BOARD FOR SCOTLAND

PATIENTS' MAIL POLICY

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The date for review detailed on the front of all State Hospital policies, procedures and guidance does not mean that the document becomes invalid from this date. The review date is advisory and the organisation reserves the right to review a policy, procedure and guidance at any time due to organisational or legal changes.

Staff are advised to always check that they are using the correct version of any policy, procedure or guidance rather than referring to locally held copies.

The most up to date version of all State Hospital policies, procedures and guidance can be found on the Hospital's Intranet policies page.

REVIEW SUMMARY SHEET

Changes required to policy (evidence base checked)

Yes ☒

No ☐

Summary of changes within policy for 2024/25 review:

Section 10 (Withholding of Mail) has been expanded to include criteria for withholding of mail.

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1 INTRODUCTION/PURPOSE

In general, the mail of detained patients should not be withheld and patients should be able to correspond with whomsoever they wish. However, sections 281 to 283 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (“the Act”) make provision for the managers of a state hospital in which a “specified person” is detained, to withhold the patient’s mail in specific circumstances.

All patients in The State Hospital (TSH) are specified persons.

The Act recognises that, on occasion, it may be necessary to withhold mail sent to or from a patient. This may be because a person has requested in writing that mail addressed to them by a patient is withheld. Alternatively, mail may be withheld where there is a view that mail sent to or by a “specified person” should be withheld on the grounds of potential distress and / or danger to the addressee or any other person, or that a postal packet received by a patient might not be in the interests of the health and safety / and/or a potential risk of danger to the patient or any other person.

Where the Responsible Medical Officer (RMO) considers restrictions on a patient’s correspondence are necessary, they must take the action set out in the Act and associated regulations under section 281 The Mental Health (Definition of Specified Person: Correspondence) (Scotland) Regulations 2005 SSI No. 466) and The Mental Health (Specified Person’ Correspondence) (Scotland) Regulations 2005 SSI No.408). A copy of the Mental Welfare Commission for Scotland (MWCS) publication “Specified persons guidance” is attached in Appendix 1.

Limiting rights and freedoms (‘qualification’) can only be justified when it is ‘**necessary in a democratic society**’ and ‘**proportionate**’ (The Human Rights (Scotland) Act 1998). The rights and freedoms in this Act may be qualified in order to achieve a necessary objective, e.g. protecting public and patient health and / or safety, and / or risk of danger to any person. The right to respect for privacy and family life is integrated within the Human Rights Scotland Act however, within the confines of TSH some of these rights are *qualified*.

TSH, as a public authority, has a *positive obligation* under The Human Rights (Scotland) Act 1998 to ensure that Human Rights are respected and are not compromised without justification.

2 DEFINITIONS

This policy relates to two types of mail:

- 1) Letters (defined locally as correspondence communicated on, card and postcards).
- 2) Packets (defined locally as parcels, envelopes containing magazines and books, and envelopes containing more than mere correspondence).

Incoming and outgoing items are categorised locally as:

- a) **General external post** defined within the Act as a letter, parcel, packet or other article transmissible by external post, except mail as described below.
- b) **Mail to Listed persons:** external post to and from listed persons such as a solicitor, MP or Scottish Public Service Ombudsman (see Appendix 1 for the full list).
- c) **Withheld mail:** mail addressed to a person who has requested in writing (direct to the Hospital, RMO or Scottish Ministers) that mail addressed to that person from a patient be withheld.

- d) **Internal mail:** any mail sent between a patient and any department, staff member, (including the Complaints Officer), Advocacy, or another patient.

3 PRINCIPLES

The Act provides powers for TSH to withhold incoming (external) mail to or from a specified person - with the exception of mail to or from a "listed" person (see below) - if it is considered that this is necessary in the interests of the health or safety of that patient or for the protection of any other person. Outgoing mail (external) may be withheld if it is deemed likely to cause distress and / or danger to the recipient.

Listed persons include the patient's advocate, Hospital Managers, legal adviser, and MP (see Appendix 1). Listed persons should mark correspondence clearly on the outside of the letter or packet with their name, address and the capacity in which they are corresponding. Where this is not obvious, staff may open and inspect mail ONLY to determine that it is from a listed person prior to recording and passing to the patient. Mail to and from listed persons will NOT be read or withheld.

Named persons should be informed as soon as they are known to medical records/social work that a patient is a specified person and that mail to and from the patient may be withheld. That is, on admission to the Hospital and each time the Named Person changes.

All staff have a responsibility to be aware of the legislation and policies pertaining to patients' mail.

The Clinical Team will consider and determine the level of supervision for Patients mail as part of the Care Programme Approach review meeting process. The decision will be recorded in the patient's clinical records and formally reviewed at a minimum at each CPA.

Inspection/interception of patient's mail is an intrusive and restrictive practice; therefore any interception and inspection of mail must be commensurate with the clinical presentation of the patient at that time and the assessed risk of uninspected mail.

Letters between 'listed persons' and patients may not be withheld unless the listed person has requested this in writing. A note of this should be displayed in the mail Kardex and recorded on RIO. Incoming mail from a listed person may be examined only to verify the sender's identity if its origin is not clear from the outset.

Correspondence that is any other language will follow the same processes described within this policy. Where the Clinical Team has identified concerns relating a patient receiving mail in a language other than English, which would mean that the contents cannot be screened by local staff, the Interpretation and Translation policy process should be adopted to facilitate translation of the contents.

4 INSPECTION & TESTING OF EXTERNAL MAIL AT SECURITY

All external mail will be x rayed in Reception: if security staff detect or suspect items that will pose an immediate risk, the mail/parcel will be opened, searched and prohibited items removed and stored within the security dept., until arrangements are made to return the item to the original sender or disposed of. Offensive weapons will be handed to the police.

Any parcel too large to fit through the x ray machine will be opened and searched by two security operators.

Two members of security will search the mail in the x ray area in view of CCTV. Security operators must seek authority from the Security Team Leader (or in their absence a Security Manager) to open and search the mail.

On completion of the search, a Mail Search Form will be completed (Appendix 2). Any item removed will be stored in accordance with SP05 Patient Property Policy.

The opened mail or parcel will be delivered to the ward by a security operator with two copies of the mail search form.

Ward staff will sign both copies of the Mail Search Form, retaining one copy in the patient's mail Kardex.

The contents of all parcels must be examined by a Registered Nurse in the company of another member of staff in the presence of the patient. Any parcel that contains inappropriate or suspect contents must be referred to the RMO for decision to proceed.

Patients who are deemed to be High Supervision by their clinical team must have historical risks or significant intelligence to suggest that they have previously obtained illicit substances via mail.

Patients who are designated as High Supervision for incoming mail will have their mail opened and tested for illicit substances within the security department.

5 PROCEDURE

All incoming and outgoing mail must be recorded by the receiving ward.

In all circumstances the date, sender, type of mail and signature of the staff member must be recorded. If the mail has been opened in Security, the Mail Search Form must be filed in the patient's mail Kardex, with an explanation given to the patient as to why his mail was opened by Security.

Personal mail (e.g. letters from listed and named persons, relatives and friends) for a patient received at a location other than the ward should be forwarded to the ward for recording and transmission on to the patient.

Other mail that may be received out with the ward environment (e.g. certificates etc.) should be recorded in the location received (e.g. Patient Learning Centre). Staff in those locations will follow the procedure outlined below and record the mail within their departmental system.

6 INCOMING MAIL

The following will apply to all patients' mail regardless of designated level of supervision:

- Any item that falls within the 'Prohibited Items List' that is received within an item of mail/postal packet must be withheld.
- If an item is discovered that is not described within the 'Prohibited Items List' but staff have concerns as to the safety and security risks that may be posed by the item, they must consult the Duty Security Manager before taking any further action.
- All property received will be processed in accordance with SP05 Patients Property Policy.

Levels of Supervision

One of three categories will be assigned to incoming patient mail on the advice of the RMO/Clinical Team:

1) High (Opened, Inspected, Read & Tested)

- On arrival at TSH patient's mail will be set aside for testing for illicit substances. Testing will be carried out within 24 hours by the security department, and if the mail is found to have any positive results, then this will be withheld.
- On delivery to the ward, a member of staff will open, read and examine the contents. Unless there are any issues of concern, the contents will be given to the patient. Should there be any concerns the letter/package and its contents will be withheld.

2) Medium (Opened, Inspected & Read)

- The member of staff will hand the envelope or package to the patient for opening. The patient will return the mail to the member of staff for reading and examination of the contents. Unless there are any issues of concern, the contents will be returned to the patient. Should there be any concerns the letter/package and its contents will be withheld.
- Mail may, on occasion, be opened by staff and inspected before being passed to the patient, depending on the clinical presentation of the patient or the advice of the RMO/Clinical Team. Rationale supporting this action will be recorded appropriately on RIO.

3) Low (Opened and Inspected)

- The member of staff will hand the envelope or package to the patient for opening and will inspect it to confirm the identity of the sender. The mail will be returned to the patient unless there are any subsequent issues of concern (e.g. the contents cause distress or prompts unusual behaviour in the patient). Staff in these circumstances may withhold the entire package for further examination and advice from the RMO/Clinical Team.

7 OUTGOING MAIL

Levels of Supervision

The following will apply to all patients' mail regardless of designated level of supervision:

- Patients are not permitted to pass letters to visitors for posting outside the Hospital, neither are they permitted to receive letters from a visitor during a visit. Patients are not permitted to pass letters to each other during any off-ward activities.
- Under no circumstances must staff receive mail from patients for posting outside the Hospital.
- Patients will not be permitted to correspond with individuals through unauthenticated addresses such as mail handling centres or P.O. Boxes.

One of three categories will be assigned to outgoing patient mail on the advice of the RMO/Clinical Team. In all circumstances the date, addressee, type of mail and signature of the staff member must be recorded appropriately in the ward mail Kardex.

The clinical team will determine which of the following three categories to apply to patients:

1) High (Inspected, Read and RMO Approval)

- The patient's RMO and Clinical Team may consider that there is an identified need for individual patients to have either all their mail, or mail to and from specified individuals further inspected by the RMO or nominated deputy.
- The reasons for further inspecting a patient's mail must be clearly documented in the patient's clinical notes with the patient being advised of the rationale for further inspection.
- Clinical Teams with patients identified for further inspection of mail will record their discussions on the monitoring of mail in the patient's notes on a regular basis at periods not exceeding six months (each CPA meeting).

2) Medium (Inspected and Read)

- All outgoing mail is inspected and read by staff.
- After inspection, the envelope or package is returned to the patient for them to seal the envelope / package. The member of staff will be present throughout.

3) Low (Inspected)

- All outgoing mail is inspected by staff. After inspection, the envelope / package is returned to the patient for them to seal, witnessed by the member of staff.

8 INTERNAL MAIL

Incoming Internal Mail – will be managed as per the patients' level of supervision. Mail clearly marked as from a listed person, RMO, Chief Executive or Complaints Officer should NOT be opened, inspected or withheld.

Outgoing Internal mail – will be managed as per the patients' level of supervision, unless to a listed person, RMO, Chief Executive or Complaints Officer.

Distressing internal mail sent to staff must be reported via DATIX. It may be necessary to withhold letters from a patient to a staff member, in this instance Section 10 of the policy will be followed.

Any correspondence, which gives cause for concern, must be referred to the patients' RMO for decision to proceed. The RMO will need to seek the advice of the Director of Security (or Nominated Deputy) in relation to some items of correspondence, (e.g. mention of escape planning, mention of illicit substances, letters of a threatening nature, potential fraud).

9 FINANCE RESPONSIBILITIES

All patients' outgoing letters that are a free stamp or require a stamp should be forwarded to the Finance Department to have the letter recorded and the charge noted, if not free. All letters, unless marked first class, will be sent out second class.

Finance records all outgoing letters received and ink dot them prior to sending to the mail room.

Any parcels that a patient requires to send are sent direct to the mail room where they will be weighed to ascertain the cost, and phone Finance to advise patient number, name and address of recipient, and cost. This will then be recorded by Finance.

At the end of each month the spreadsheet with postage costs is sent to the Patients' Bank for charging to patients.

10 WITHHOLDING OF MAIL

The Act states that mail is withheld (incoming or outgoing) following a request from the RMO. Although it would be preferable for this request to be made following discussion by the Clinical Team, the timescales specified by the Act may make this impossible.

Appendix 3 must be completed if mail (incoming or outgoing) is to be withheld, this must be sent to the patients RMO along with the withheld item for the RMOs final decision. The RMO must make a decision to request the item be withheld or returned to the patient/mail within two working days of the item being withheld from the patient/mail.

Once the decision is made by the RMO as to the appropriate action, the final section of this form must be completed and sent to the Chief Executive's office for monitoring and governance purposes by the end of the next working day.

Any withheld mail and/or its contents will be immediately reported to Senior Clinical Cover, Duty Security Manager and the RMO or Duty RMO.

Within 7 days the MWCS and all relevant parties will be notified by the Chief Executive, as specified by the Act. Hospital managers are required to retain a withheld item of mail and to produce it, if requested by MWCS, within 14 days of a request for a review.

NOTE: The time scale begins from the moment that a member of staff defers presenting the patient with mail/ sending the item of mail whilst awaiting further advice from the Clinical Team.

The patient must be advised that mail has been withheld by their RMO, Rationale for withholding recorded in RIO. The Patient will be advised of his right to seek support from the Patient Advocacy Service.

The sender must also be advised of their rights to apply to the MWCS to have the decision reviewed by the RMO.

Where correspondence in any other language requires to be screened, TSH will seek translation within 48 hours, after which the correspondence will be considered to be withheld.

11 COPYING PATIENTS' MAIL, EITHER INCOMING OR OUTGOING, AND THE RETENTION OF COPIES

In the course of their inspection of patient's mail, either incoming, outgoing, or internal, the RMO may themselves, or when notified by Nursing Staff, come across elements of correspondence which are of particular importance in assessing the patient's mental state, the risk they may pose to others or themselves, or evidence of a pathological relationship with a correspondent. Examples may include correspondence from or to a child, correspondence which contains a specific threat, correspondence which illustrates beliefs which are similar to those which precipitated the index offence leading to admission to TSH or important clinical information not otherwise known, any of which may inform further treatment.

In order to properly document such concerns, the RMO may decide that taking a copy of this correspondence and keeping it in the patient's record is necessary. Any patient whose mail is being copied must be advised of this by their RMO, and a record made in the patient's notes of the

discussion. In addition, the RMO or nominated deputy will keep a record of such events, available for inspection by the Mental Welfare Commission (MWC).

Any patient who objects to a copy being taken will have the right to appeal, in the first instance to their RMO, and thereafter to the Associate Medical Director, who will decide whether copying the mail is legitimate on the basis of the criteria set out in this policy and if it is not legitimate, the copy will not be kept.

12 EQUALITY AND DIVERSITY

The State Hospitals Board (the Board) is committed to valuing and supporting equality and diversity, ensuring patients, carers, volunteers and staff are treated with dignity and respect. Policy development incorporates consideration of the needs of all Protected Characteristic groups in relation to inclusivity, accessibility, equity of impact and attention to practice which may unintentionally cause prejudice and/or discrimination.

The Board recognises the need to ensure all stakeholders are supported to understand information about how services are delivered. Based on what is proportionate and reasonable, we can provide information/documents in alternative formats and are happy to discuss individual needs in this respect. If information is required in an alternative format, please contact the Person-Centred Improvement Team on 01555 842072.

Line Managers are responsible for ensuring that staff can undertake their role, adhering to policies and procedures. Specialist advice is available to managers to ensure that reasonable adjustments are in place to enable staff to understand and comply with policies and procedures. The Equality and Impact Assessment (EQIA) considers the Protected Characteristic groups and highlights any potential inequalities in relation to the content of this policy.

Patient pre-admission assessment processes and ongoing review of individual care and treatment plans support a tailored approach to meeting the needs of patients who experience barriers to communication (e.g. Dementia, Autism, Intellectual Disability, sensory impairment). Rapid access to interpretation/translation services enables an inclusive approach to engage patients for whom English is not their first language. Admission processes include assessment of physical disability with access to local services to support implementation of reasonable adjustments. Patients are encouraged to disclose their faith/religion/beliefs, highlighting any adapted practice required to support individual need in this respect. The EQIA considers the Protected Characteristic groups and highlights any potential inequalities in relation to the content of this policy.

Carers/Named Persons are encouraged to highlight any barriers to communication, physical disability or anything else which would prevent them from being meaningfully involved in the patient's care (where the patient has consented) and/or other aspects of the work of the Hospital relevant to their role. The EQIA considers the Protected Characteristic groups and highlights any potential inequalities in relation to the content of this policy."

13 STAKEHOLDER ENGAGEMENT

Key Stakeholders	Consulted (Y/N)
Patients	Y
Staff	Y
Carers	Y
Volunteers	N

14 COMMUNICATION, IMPLEMENTATION, MONITORING AND REVIEW

This policy will be communicated to all stakeholders within the State Hospital via email, the hospital's intranet and through the staff bulletin.

The Person Centred Improvement Team will facilitate communication with Patients, Carers and Volunteers.

The Security and Resilience Group will be responsible for the implementation and monitoring of this policy. All documents are monitored and reviewed on an ongoing basis by the policy Lead Author and advisory group as part of working practice

Any deviation from policy should be notified directly to the policy Lead Author. The Lead Author will be responsible for notifying the Advisory Group of the occurrence.

This policy will be reviewed every three years or earlier depending on the risk and priority level associated with the policy. In some instances, a Category 1 or Category 2 Incident or other significant event(s) may require immediate review of any documents.

APPENDIX 1: MENTAL HEALTH (CARE AND TREATMENT) (SCOTLAND) ACT 2003 – SECTION 281

Mental Health (Care and Treatment) (Scotland) Act 2003 – Section 281

The following is an extract from the guidance on listed persons from the Mental Welfare Commission (Principles and best practice in implementing specified person's regulations under the Mental Health (Care & Treatment) (Scotland) Act 2003.

Restrictions may not be imposed on a specified person's contact with listed persons unless the listed person has requested that calls are intercepted or mail withheld. From Section 281 of the Act these people are:

- Advocacy worker.
- European Court of Human Rights.
- NHS Board.
- Hospital Managers.
- Healthcare Improvement Scotland.
- Judge or clerk of court.
- Legal adviser.
- Local authority.
- MP, MSP.
- Member of Welsh Assembly or Northern Ireland National Assembly.
- Mental Health Tribunal for Scotland.
- Mental Welfare Commission or any of its members.
- Minister of the Crown.
- National Health Service Trust.
- Parliamentary Commissioner for Administration.
- Scottish Freedom of Information.
- Commissioner.
- Scottish Minister.
- Scottish Public Services Ombudsman.
- Special Health Board.

APPENDIX 2: MAIL SEARCH FORM

Mail Search Form

Patient Name:
Ward:
Mail Sender (If known):
Authority to open given by:
Reason for Opening:
Any items removed? Yes <input type="checkbox"/> No <input type="checkbox"/> List of items removed: Actions taken with removed item(s):
Security Operator 1 Name: _____ Signature: _____
Security Operator 2 Name: _____ Signature: _____
Received on Ward Name: _____ Signature: _____

Copy to Reception and Ward.

APPENDIX 3: WITHHOLDING OF POSTAL PACKAGES

THE STATE HOSPITAL

WITHHOLDING OF POSTAL PACKAGES

Mental Health (Care and Treatment) (Scotland) Act 2003

To: RMO

(a) Name of Patient:

(b) Section under which packet withheld and reasons for withholding (e.g. section 281 (2) or (3) for outgoing post, or section 281(6) for incoming post:

.....
.....
.....
.....
.....

(c) Date withheld:

In the case of a request from the addressee requesting that the packet be withheld, confirmation should be given that a notice in writing has been received. It should also be confirmed that the addressee's letter is available in the Patient's Medical File.

The postal packet should be attached to this form.

Date: Name:

Signature: Designation:

To: Gary Jenkins (Chief Executive)

Date Considered:

Signature:

Decision: Agree – Forward to Chief Executive

Disagree – Return mail to ward and forward form to Chief Executive