

ASSESSMENT AND COMPULSORY ADMISSION TO HOSPITAL (PART II)

PATHWAY FOR COMPULSORY ADMISSION TO HOSPITAL
FOR ASSESSMENT AND TREATMENT UNDER THE MENTAL
HEALTH (NORTHERN IRELAND) ORDER 1986

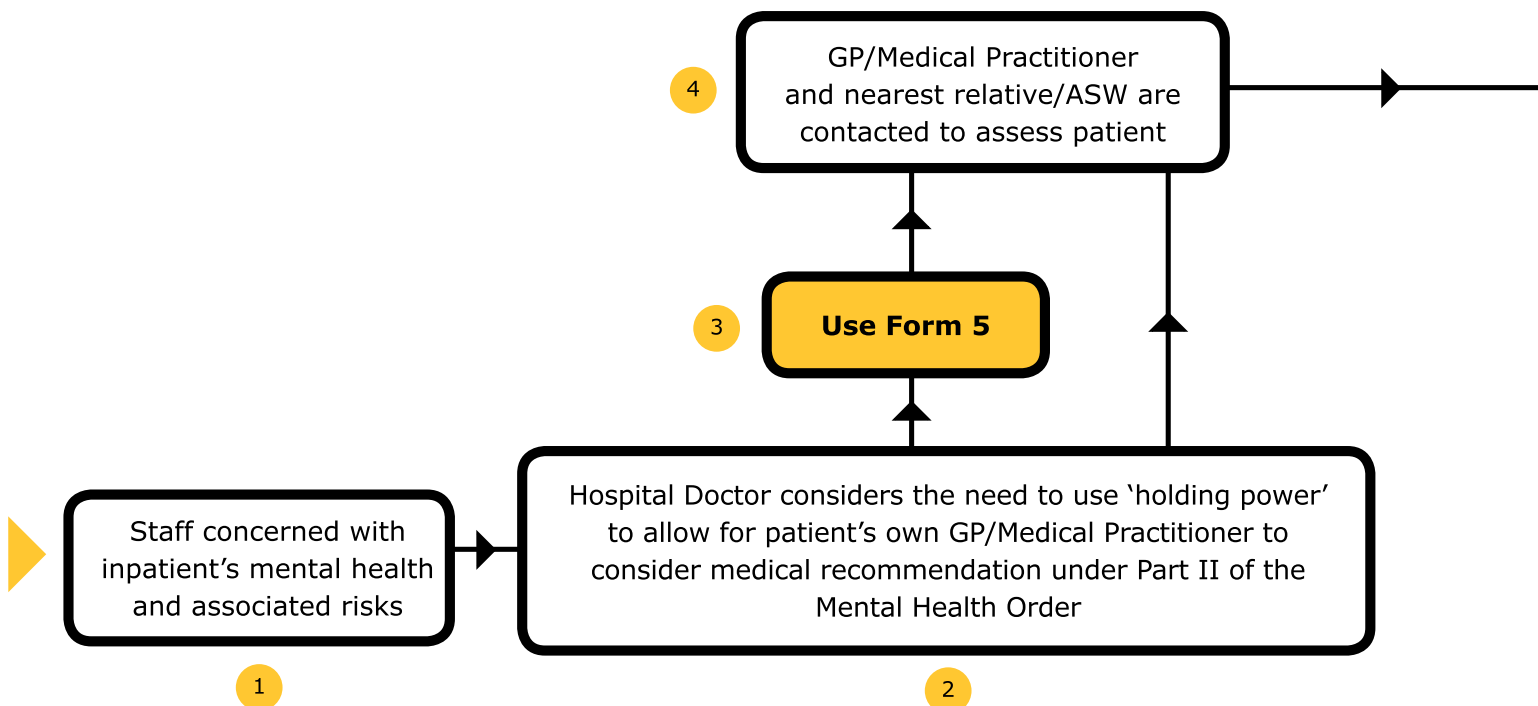
PRESENTATION IN A GENERAL HOSPITAL

Flow Chart 110 - 114

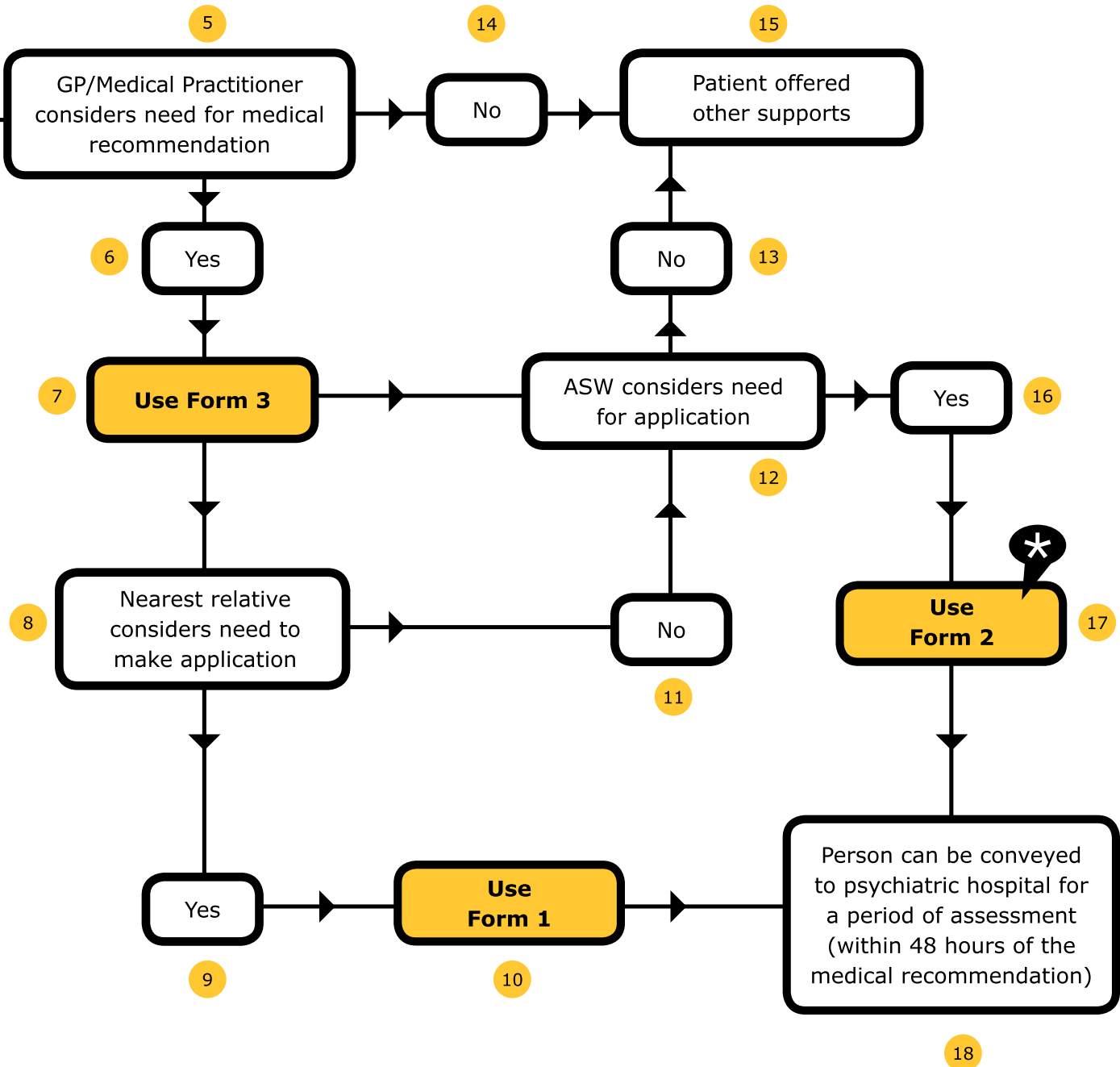
The Flow Chart in Greater Detail 115 - 171

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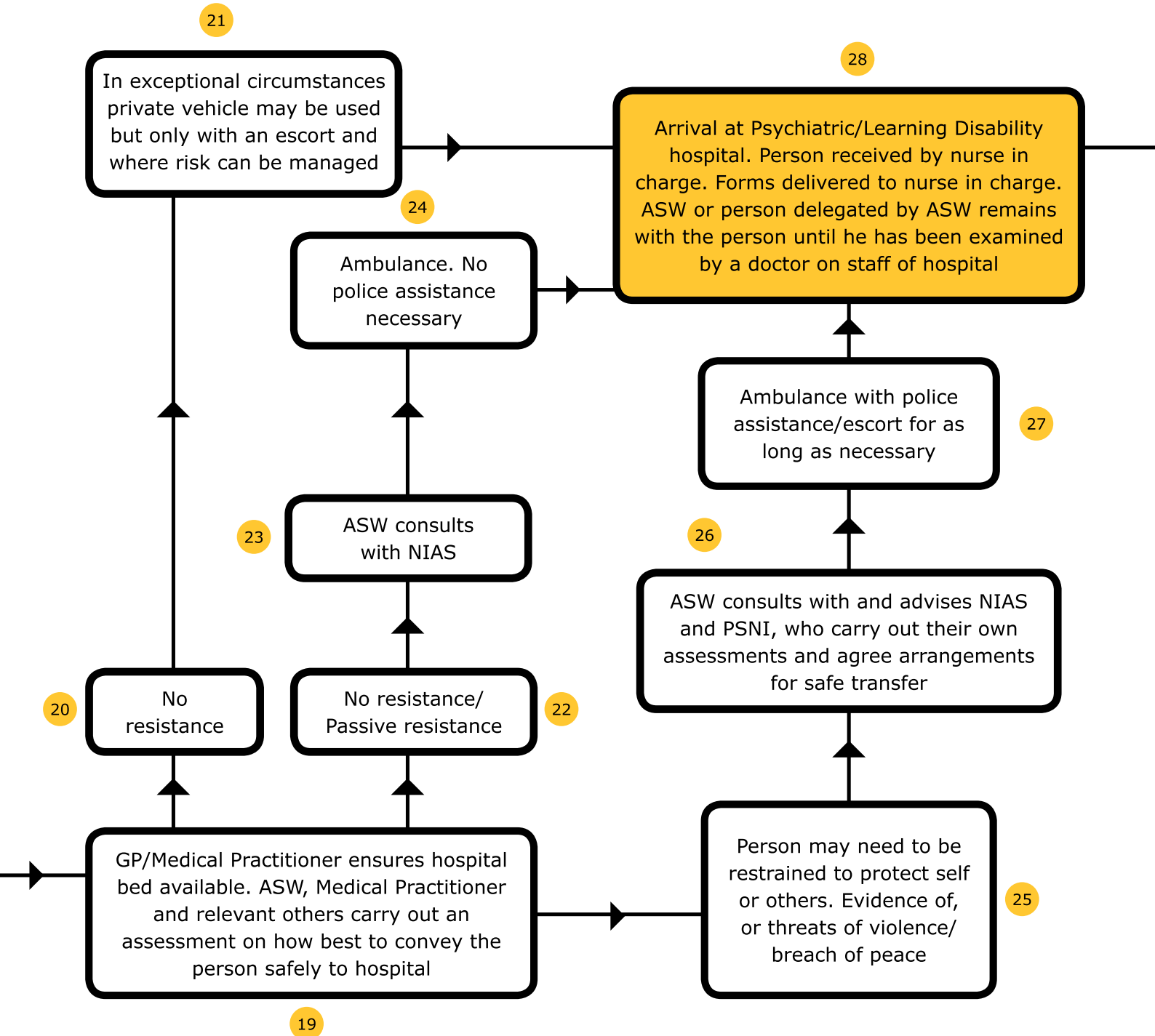
PRESENTATION IN A GENERAL HOSPITAL



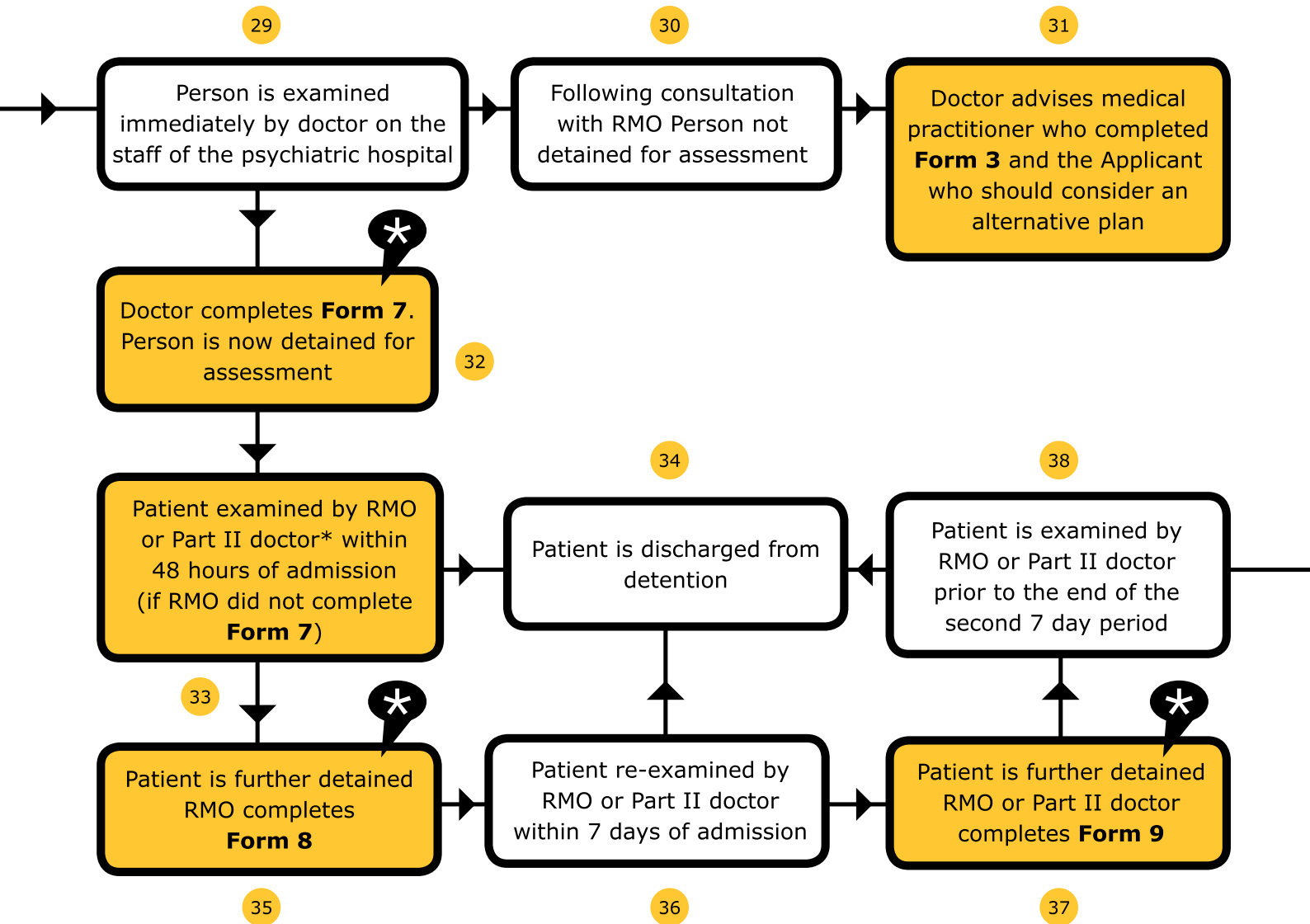
APPLICATION



SAFE CONVEYANCE TO A PSYCHIATRIC OR LEARNING DISABILITY HOSPITAL

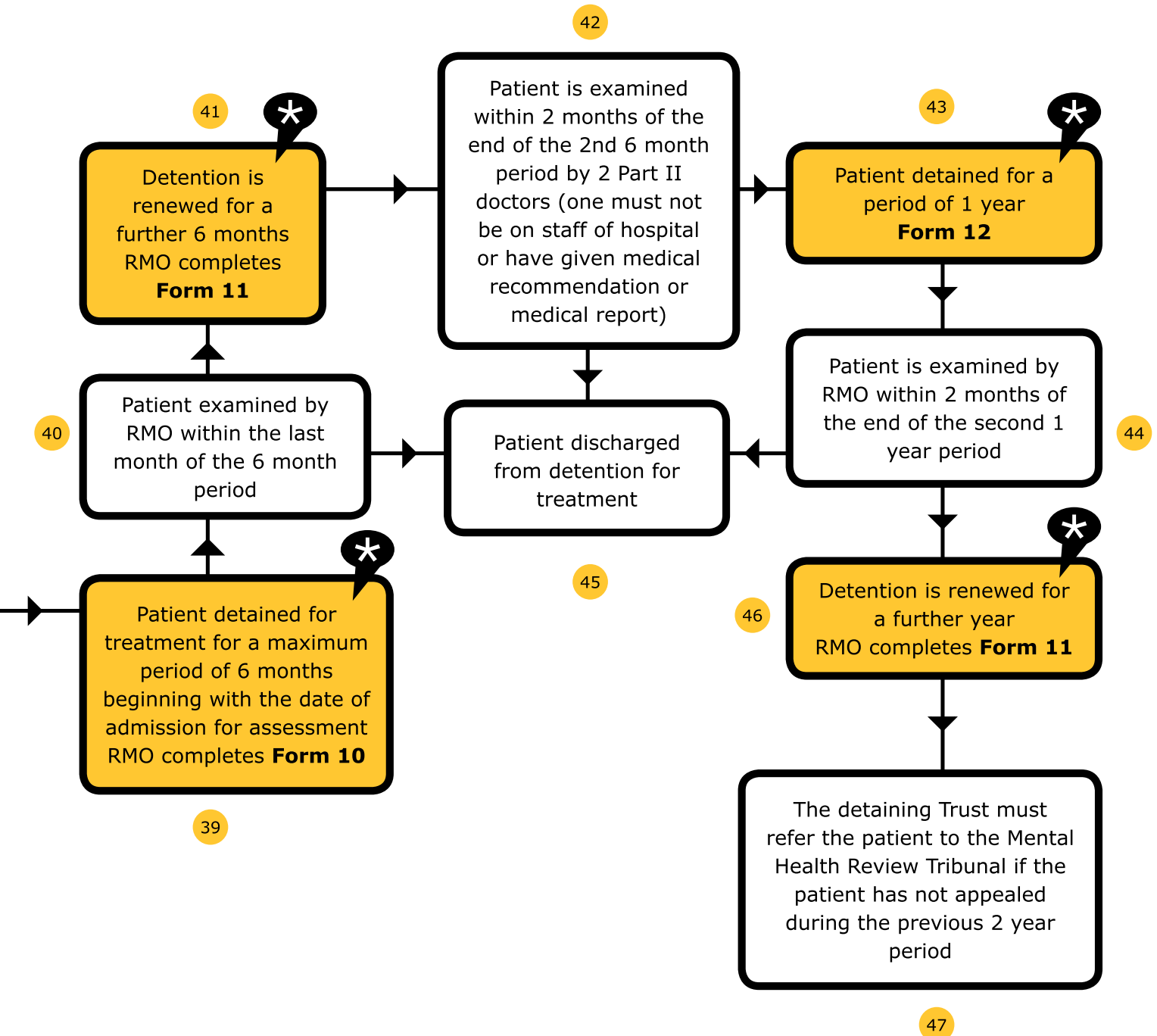


COMPULSORY ADMISSION AND DETENTION IN HOSPITAL FOR ASSESSMENT



Patient is advised of his Rights including the right to appeal to the Mental Health Review Tribunal

DETENTION FOR TREATMENT IN HOSPITAL



PATHWAY FOR COMPULSORY ADMISSION TO HOSPITAL FOR ASSESSMENT AND TREATMENT UNDER THE MENTAL HEALTH (NORTHERN IRELAND) ORDER 1986

THE FLOW CHART IN GREATER DETAIL

PRESENTATION IN A GENERAL HOSPITAL

Introduction:

Article 7 of the Order allows for an in-patient in a general hospital to be detained in hospital in certain circumstances.

This action can be taken when there is concern that an in-patient is mentally disordered to such a degree that it is necessary and proportionate to prevent that patient from leaving hospital either in the interests of his own physical safety or the safety of others. The hospital doctor should make efforts to discuss the use of this power, prior to using it, with the local liaison psychiatrist. If this is not possible the doctor should seek this advice as soon as practicable after the power has been used.

The purpose of this power is to allow time, no longer than **48 hours**, for the patient's medical practitioner and the applicant (ASW or nearest relative) to consider the need to make application for the patient to be detained for assessment under Part II of the Order.

The power to detain a patient in hospital for this purpose is commonly known as a **"Holding Power"** and can only be exercised by a medical practitioner on the staff of the hospital. The doctor is required to complete "The Medical Practitioner's Report on Hospital In-Patient Not Liable to Be Detained" – **Form 5. [LINK TO FORM 5](#)**

Prior to the re-organisation of the Health and Health and Social Services Trusts into the five Health and Social Care Trusts, non-authorised hospitals (hospitals not managed by a Health and Social Services Trust) were required to use a **Form 5A**, rather than **Form 5**. As all hospitals are now managed by authorised Health and



Social Care Trusts this provision is no longer applicable and general hospitals should now also use **Form 5** when necessary.

Hospital staff must ensure that the attendance of the patient's medical practitioner, preferably his GP and the applicant (ASW and nearest relative) is requested as a matter of urgency as soon as possible after **Form 5** has been completed as the 48 hour holding period cannot be extended.

The patient should be advised of his detained status and its effect in a format and language he understands.

The power should not be used unless there is a genuine intention on behalf of the doctor to proceed with an assessment in relation to a detention for assessment.

What should the staff involved do if there are communication difficulties with the patient?

Staff have a legal duty to seek the assistance of an interpreter when the patient does not speak English as a first or competently as a second language. The right to an interpreter or additional aids to communication should also be considered for patients with sensory impairment.

Can the patient be forced to accept treatment during this holding period?

No. Patients detained under **Article 7** have the same rights as other "voluntary" patients. No treatment, except when given in an emergency, can be administered without the patient's consent.

Emergency treatment can only be given within the principles of common law and should be the least restrictive and the minimum necessary. **LINK TO DHSSPSNI Reference Guide to Consent for Examination, Treatment or Care**

Can the patient be transferred/removed on a Form 5 to another hospital i.e. a psychiatric or learning disability hospital?

No. Patients subject to **Article 7** cannot be transferred to another hospital during these time periods. The assessment by the medical practitioner and ASW or nearest relative must take place in the hospital where **Form 5** has been used. However, the patient may be transferred to a more suitable setting within the hospital site.

Can this “holding power” be used in relation to a person attending an A&E or hospital out-patient department?

No. The holding power described in the previous paragraph is only applicable to a person who is an “in-patient” in the general hospital at that time.

What should happen if it becomes clear to the hospital doctor that the use of Form 5 is no longer necessary?

The holding power should not be allowed to run the full **48 hours** if concerns regarding the nature and degree of the patient’s mental disorder and associated risk of physical harm no longer exist. The patient must be advised of this and the patient’s medical practitioner and applicant (ASW or nearest relative) advised accordingly as a matter of urgency. This action should be recorded in the patient’s notes.

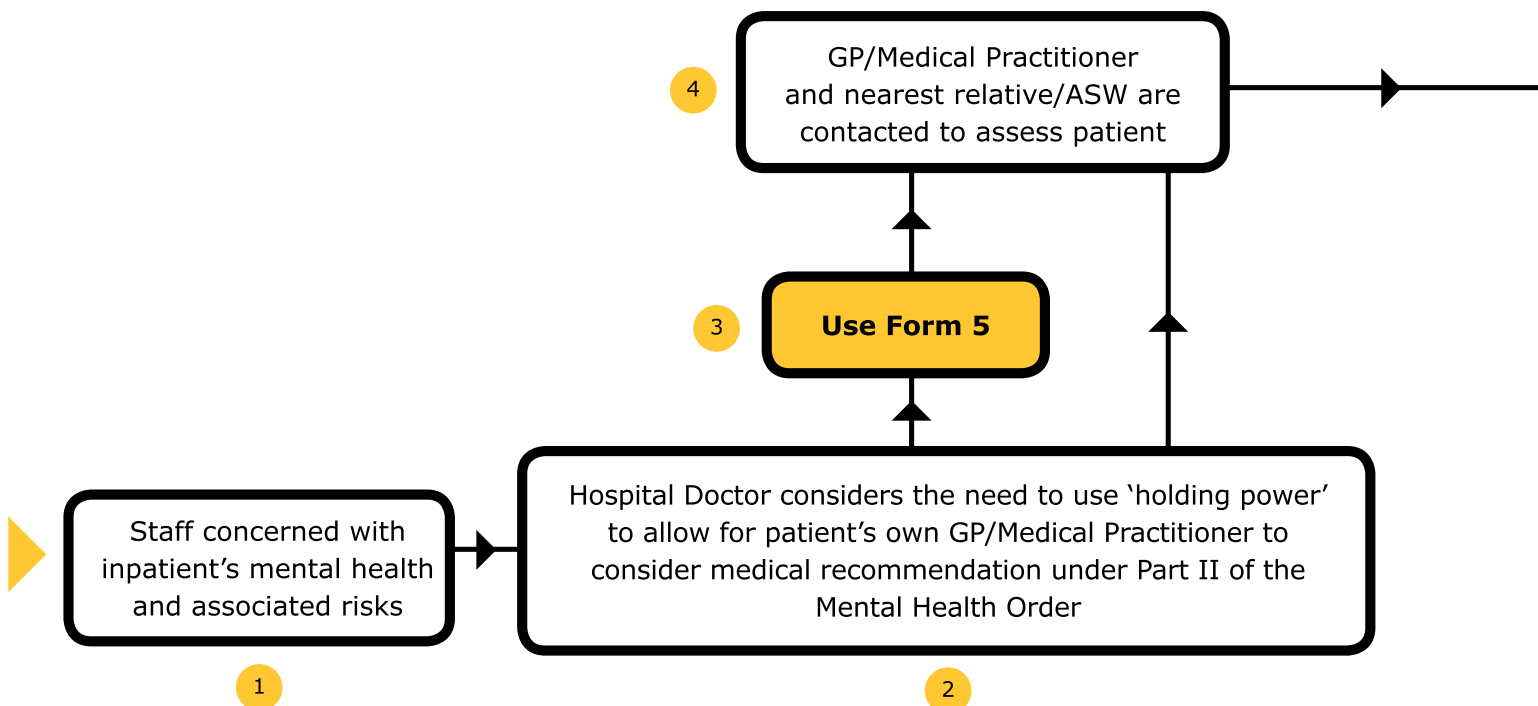
What should happen Form 5?

Form 5 is a legal document and a copy must be forwarded to RQIA through arrangements in the Trust whether or not an assessment in relation to an application for detention in hospital subsequently takes place.



PATHWAY FOR COMPULSORY ADMISSION AND DETENTION IN HOSPITAL FOR ASSESSMENT AND TREATMENT UNDER THE MENTAL HEALTH (N.I.) ORDER 1986

PRESENTATION IN A GENERAL HOSPITAL



PRESENTATION IN A GENERAL HOSPITAL

- 1 Staff are concerned that the patient may be mentally disordered and as a consequence of this is behaving in a way that is causing, or is likely to cause, serious physical harm to himself or to others. A psychiatric opinion from the appropriate local liaison team should be sought to provide expert guidance on the use of the Order except if the situation is extremely urgent and there is not time available to wait for the specialist opinion.
- 2 A doctor on the staff of the hospital considers or is asked to consider, whether or not a patient ought to be detained in that hospital to allow, within 48 hours only, for the person's own GP or another practitioner to consider making a medical recommendation followed if necessary by an application for detention in hospital for assessment.

What are the criteria for admission for assessment?

Article 4 (2) states that an application for assessment may be made in respect of a patient on the grounds that –

- (a) He is suffering from mental disorder of a nature or degree which warrants his detention in a hospital for assessment (or for assessment followed by medical treatment); and
- (b) Failure to so detain him would create a substantial likelihood of serious physical harm to himself or to other persons.

- 3 The doctor completes **Form 5**, recording his reasons for doing so. The doctor should advise the patient and relevant others that he is subject to detention and cannot leave the hospital until he has been seen by his GP or other medical practitioner and an ASW or nearest relative. **LINK TO FORM 5**

4

The doctor ensures that a request is made as a matter of urgency to the patient's GP for attendance at the hospital to consider the making a medical recommendation for the patient's detention in hospital for assessment. It is advisable, at this stage, to advise the patient's next of kin or nearest relative (if known) and the duty ASW of the situation.

Who should carry out the assessment and if necessary make the medical recommendation in relation to a patient who is currently an in-patient in a general hospital?

The Order (**Article 6**) states that the medical recommendation for admission for assessment should be given, if practicable, by the patient's own GP. If this is not possible a medical practitioner who has previous acquaintance with the patient can make the recommendation.

A doctor on the staff of the general hospital can make the medical recommendation but should do so only where the attendance of the person's own general practitioner or another medical practitioner with previous acquaintance with the patient is not practicable.

The Code states that the Order does not prohibit a doctor on the staff of another hospital from making the medical recommendation, but it is preferable for this to be done by the patient's own GP, or by another practitioner who has previous knowledge of the patient. **Article 6 (b).**

A doctor on the staff of the hospital in which it is intended the assessment should be carried out **cannot give the recommendation except in a case of urgent necessity. Article 6 (c).** This same rule should apply if the patient is medically unfit for discharge and there is therefore a possibility that he will be detained for assessment in the general hospital.

Who should carry out the assessment and if necessary make the medical recommendation in relation to a patient who is currently an in-patient in a general hospital? (cont'd)

Therefore all attempts should be made by hospital nursing and medical staff involved to ensure that the patient's own GP is requested to attend the hospital to consider and if necessary complete the medical recommendation or to make alternative arrangements.

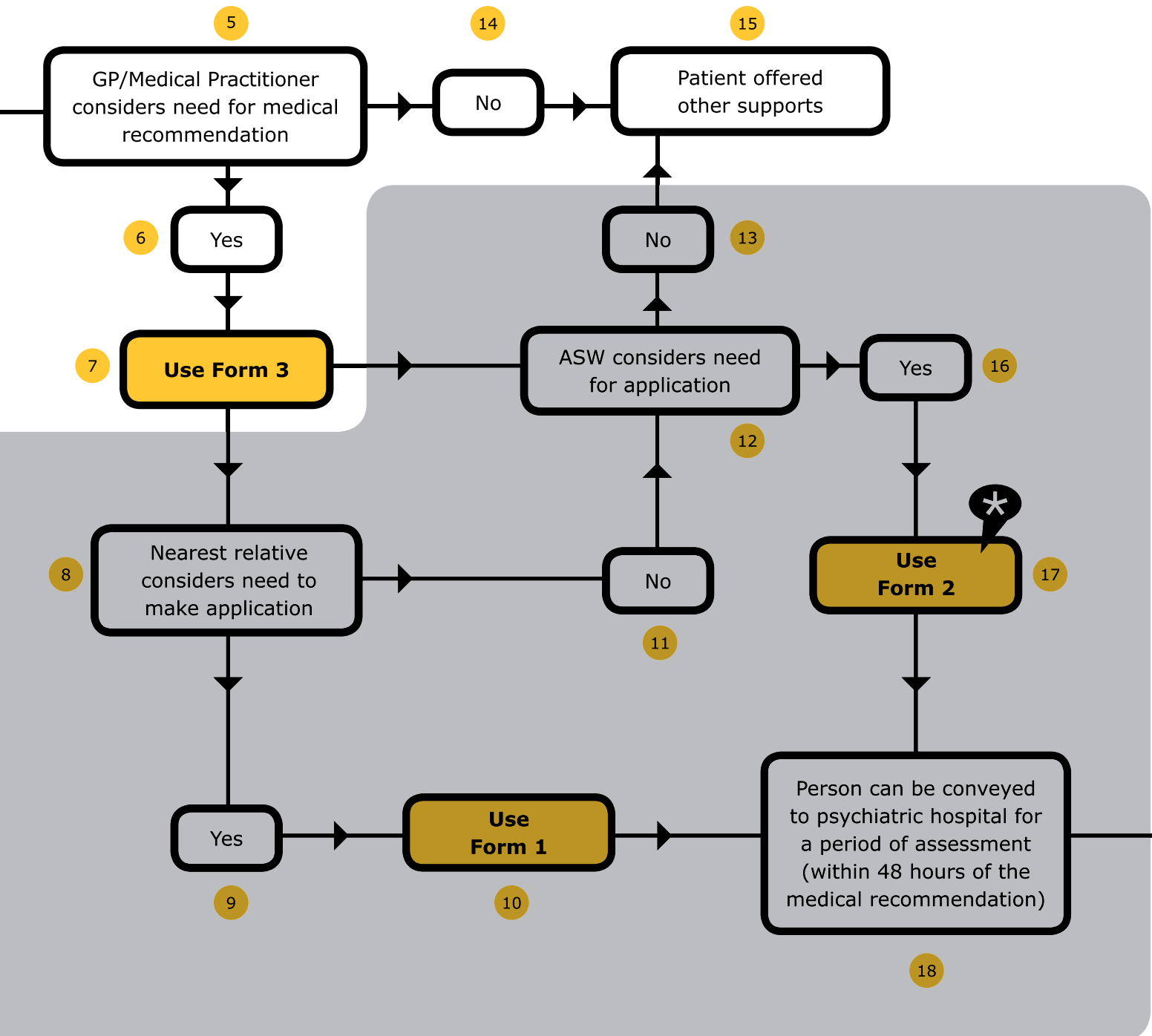
Any doctor, who is not the person's GP and who is examining the person with a view to making a medical recommendation should make all efforts to consult with the GP or access the person's relevant medical records.

What if the person is not registered with a GP?

In this circumstance the assistance of a medical practitioner should be sought through local emergency primary care arrangements.



APPLICATION - Medical Recommendation



APPLICATION

Medical Recommendation:

5

The GP/medical practitioner must interview the patient as soon as possible and consider whether or not a medical recommendation should be made on the grounds that the patient appears to meet the criteria for admission for assessment as set out in **Article 4** of the Order. **LINK TO ROLE OF GP/ MEDICAL PRACTITIONER**

What are the criteria for admission for assessment?

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- (b) Failure to so detain him would create a substantial likelihood of serious physical harm to himself or to other persons.

The GP/medical practitioner should consider the evidence that can be used in determining that there is a substantial likelihood of serious physical harm to the person or others as set out in **Article 2 (4)** and **paragraphs 23 and 24 of the Guide**.

If the patient is medically fit for discharge, the GP/medical practitioner should consider alternatives to detention, including assistance from the local mental health home treatment team or other community health and social care services as he will be required to state in the Medical Recommendation **Form 3** that “reasonable provision for his safety is not available in the community”. If the patient is medically unfit for discharge the assistance of the local liaison psychiatry service should be considered.

In most situations, and if the nearest relative has declined to make the application or hospital staff have been unable to contact or identify the

nearest relative, a request for the duty ASW to attend will be made at the same time as that made to the GP/medical practitioner. This allows for a joint assessment and/or consultation in relation to the need to make an application for detention for assessment.

The GP/medical practitioner and ASW should consider whether a separate or joint interview with the patient should be conducted. This should take account of the patient's wishes and any other concerns in the assessment situation.

The Code, 2.5 states that "it is good practice for the professionals involved in the application for admission to be present at the same time although it may be advantageous for each to interview the patient separately".

What other factors need to be considered when interviewing the patient?

In addition to ensuring that the interview takes account of the Principles contained in the **Code of Practice 1.8** the following good practice guidelines should be considered.

- If the patient who is being assessed does not speak English as a first or competently as a second language, the professionals must seek assistance from an interpreter through arrangements set out by the Regional Interpreting Service. All health and social care professionals/staff have a legal duty to provide an interpreter in these circumstances under the Northern Ireland Act 1998, Race Relations (Northern Ireland) Order 1997 and Human Rights Act 1998. This duty will also apply in relation to the communication needs of the nearest relative.
- A professional interpreter can be accessed 24 hours a day, 7 days of the week through the Northern Ireland Health and Social Services Regional Interpreting Service, **Telephone 028 9056 3794**. Their Code of Practice contains additional guidance including how to contact an interpreter in an emergency situation. **LINK TO Code of Practice and Guidelines on Booking Interpreters for HSC Staff and Practitioners**

What if the patient has other communication difficulties?

If the patient has difficulty either in hearing or speaking, the assistance of interpreters or staff with specialist skills should be sought.

Friends, relatives or other persons **should not** be used as interpreters unless in for very routine administration tasks such as setting up an appointment.

What additional factors need to be considered?

Where the patient is still unable or unwilling to communicate adequately (despite assistance from interpreters) the decision to proceed will have to be based on whatever information can be obtained from other sources.

The patient should not be interviewed when under the effects of sedative medication, short-term effects of drugs or alcohol unless it is not possible to delay because of the patient's disturbed behaviour and the urgency of the patient's needs. If these particular concerns exist the interview should be postponed.

The patient should be interviewed in private except if there is a risk of physical violence. In this event the GP/medical practitioner and ASW or nearest relative can insist on another person being present.

If the patient would like another person e.g. a friend, family member or advocate present during the interview and any subsequent action, the professionals involved should assist in securing the person's attendance unless the urgency of the case or some other proper reason makes it inappropriate to do so. **Code 2.6**



6

The GP/medical practitioner may, following an assessment of the patient's mental state and consideration of any substantial risks of serious physical harm to the patient or others that might exist, conclude that a medical recommendation should be made.

The GP/medical practitioner may wish to consult with the ASW or nearest relative before making a final decision in relation to the medical recommendation. As stated previously the Code states that it is good practice for the professionals involved in the application for admission to be present at the same time, although it may be advantageous for each to interview the person separately. **Code 2.5**

The GP/medical practitioner should consult with and advise the doctor in the hospital who has requested the medical recommendation and nursing staff of the outcome of the medical examination and decision to complete **Form 3**.

7

If satisfied that the patient meets the criteria for detention in hospital for assessment the medical recommendation should be made the medical recommendation should be made to the relevant authority* using the prescribed form (**Form 3**) and should include;

- (a) a statement that, in the opinion of the recommending doctor, the grounds set out in **Article 4 (2) (a)** and **(b)** apply;
- (b) the grounds, including a clinical description of the mental condition, for his opinion that the detention is warranted; and
- (c) the evidence for his opinion that failure to detain the patient would create a substantial likelihood of serious physical harm. **Code 2.22**

The GP/medical practitioner must have examined the person no more than 2 days before the date the medical recommendation is signed.

The GP/medical practitioner should then recommend that an application under the Order be considered. **LINK TO FORM 3**

*** LINK TO List of Trust Headquarters Addresses**

Who can make the application?

The application can be made by –

- (a) The nearest relative of the patient. **LINK TO ROLE OF NEAREST RELATIVE**; or
- (b) An approved social worker. **LINK TO ROLE OF ASW**
LINK TO ASW CONTACTS LIST

Although in most situations it is the ASW who will make the application the nearest relative also has the right to do so.

If the nearest relative indicates that he wishes to exercise this right, the medical practitioner should discuss the difficulties that this action might cause in the relationship with the person whose detention in hospital is being considered and the nearest relative should be advised that an ASW can be contacted and asked to consider making the application.

What must the Trust do if the nearest relative requests that an ASW make the application?

Article 40 states that It shall be the duty of a Board or authorised HSC Trust, if so required by the nearest relative of a patient residing in its area, to direct an ASW as soon as practicable to take a person's case into consideration with a view to making an application for that person to be admitted to hospital for assessment under the Order.

14

The GP/medical practitioner may choose not to proceed with the process of admission to hospital under the Order if he concludes that the patient does not meet the criteria set down in the Order or the patient's needs can be met without detention in hospital or the patient is willing to be admitted to a psychiatric hospital or learning disability hospital as a voluntary patient and is likely to remain in that hospital without detention. As stated in Box 5, the GP/medical practitioner should consider alternatives to detention in hospital.



15

If the ASW and GP/medical practitioner agree that the criteria are not met or if the ASW considers that the application ought not be made, both professionals should consider, if possible in consultation with the individual, their family/carers and other professionals, other supports/interventions that could be put in place to meet the patient's needs.

The Code 2.28 advises that any alternative plan should identify a named professional who will have responsibility for ensuring its implementation. It should be recorded in writing and copies made available to all those who need them, subject to the needs of confidentiality.

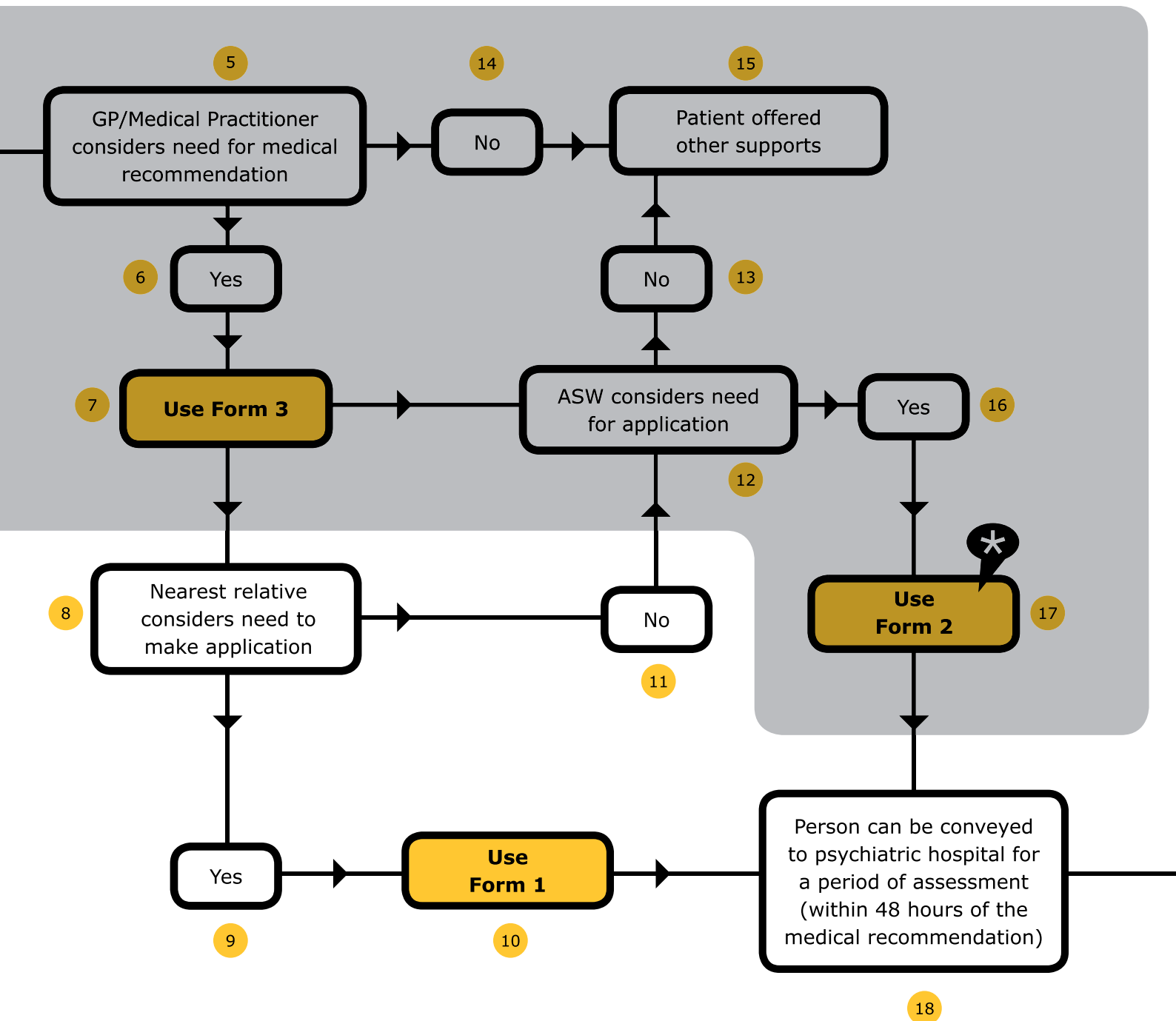
If appropriate, efforts should be made to persuade the patient to stay in hospital voluntarily.

[< BACK TO CONTENTS >](#)

APPLICATION - NEAREST RELATIVE

[< BACK TO CONTENTS >](#)

APPLICATION - Nearest Relative



APPLICATION

Nearest Relative:

- 8 The nearest relative should consider the criteria for application for detention. The patient's "nearest relative" is defined in **Article 32** and that person, if any, should be identified and advised of his right to make an application for the patient's detention in hospital for assessment. The nearest relative must be advised that he does **not** have to make the application and that an ASW can be asked to do so or can provide advice and assistance in the situation.

LINK TO ROLE OF NEAREST RELATIVE

What if the person has no nearest relative within the meaning of Article 32 of the Order?

In this event the approved social worker may proceed with the assessment and make an application if necessary.

- 9 If the nearest relative decides that the application should be made and that he wishes to exercise his legal right to do so, the professionals involved should provide and guide the person through the completion of **Form 1**. The application must be made to the relevant authority. **LINK TO List of Trust Headquarters Addresses**

The nearest relative must have seen the patient within 2 days prior to the completion of their application.

The nearest relative should be offered assistance and advice from the medical practitioner and other professionals involved.

The GP/medical practitioner should advise that the advice and assistance of an ASW is available 24 hours each day in relation to both the application and any necessary conveyance arrangements.

10

The GP/medical practitioner who has made the medical recommendation should ensure that the nearest relative has or can access the Application form – **Form 1**, and should provide assistance in the completion of this. The nearest relative should again be advised that he can request assistance from an ASW. **LINK TO FORM 1**

18

Once the application has been completed (founded on a medical recommendation) and if the patient is medically well enough to be discharged from the general hospital, the patient may be conveyed to a psychiatric or learning disability hospital. This Application (**Form 1 or 2**), founded on a properly completed Medical Recommendation (**Form 3**), together constitute sufficient authority for the compulsory removal and conveyance of the person to the hospital. **Article 8 (1)**

The ASW must ensure that both the medical recommendation and application have been properly completed. Care must be taken that the person's name and address and those of the nearest relative are correct, that both forms are properly dated and signed, the application and medical recommendation has been made to the appropriate Health and Social Care Trust with correct full address of that Trust on both forms and that the name of the hospital is clearly identified in the application. **See Appendix list of HSCTs.**

Can the person refuse to go to hospital?

No. Once the application is made the person is in the legal custody of the applicant, or a person delegated by him. The detained person will have a right to appeal to the Mental Health Review Tribunal against his detention in hospital once he is admitted.

What if the person has no “fixed abode”, is not a resident of the Trust or the jurisdiction?

In situations where the person is of no fixed abode or is not a resident of the jurisdiction, a bed should be sought in and an application made to the nearest hospital.

In situations where the person is a resident of another Trust area a bed should be sought in and an application made to that Health and Social Care Trust and the appropriate hospital identified.

When must the person be conveyed to hospital?

The Order states that the person must be admitted to hospital within 2 days beginning with the date on which the medical recommendation was made.

Can this period be extended?

Yes, in exceptional circumstances this period can be extended up to 14 days. A Part II doctor must complete **Form 4**, setting out the exceptional circumstances that make the extension necessary. [LINK TO FORM 4](#)
Article 8 (1) (ii)

How and in what circumstances can this period be extended?

Article 8 (i) (ii) states that in exceptional circumstances the period for the conveyance and admission to hospital can be extended from 2 days to a period of no more than 14 days from the date of the medical recommendation.

Exceptional circumstances might include difficulty in accessing the assistance necessary to transport the person safely to hospital or the patient’s discharge from the general hospital needs to be delayed because of a sudden deterioration in their physical health.



How and in what circumstances can this period be extended? cont'd

In this circumstance the applicant (ASW or nearest relative) must get a certificate in the prescribed form, **Form 4**, from a Part II doctor stipulating the number of days to which it can be extended and giving reasons for the extension. **LINK TO FORM 4**

What if the person is medically unfit for discharge?

If the patient is medically unfit for discharge and requires ongoing in-patient treatment in the general hospital for a significant number of days the Order also allows for the patient to be detained for assessment in the general hospital.

It is recommended that advice continues to be sought through the local liaison psychiatry service including guidance on the detention process.

How may the patient be detained for assessment in a general hospital?

In this situation the medical recommendation, **Form 3** and the application for admission for assessment **Form 1 or 2**, should be made to the Trust with management responsibility for the general hospital with the general hospital named as the hospital in **Form 1 or 2**.

A doctor on the staff of the general hospital should immediately consider, and if necessary sign **Form 7** which will last for **48 hours** in this case. Thereafter a **Part II doctor** will be required to sign the detention forms. The care of the patient should be managed jointly by the general hospital and the appropriate local psychiatrist. **LINK TO FORM 7**

How may the patient be detained for assessment in a general hospital? cont'd

The patient should be transferred as soon as he is medically fit to the appropriate mental health or learning disability hospital. In these circumstances consultation should take place between staff in the general and psychiatric or learning disability hospital to agree arrangements for the safe conveyance of the patient when medically fit for transfer. It is expected that the patient will be transferred by ambulance, accompanied by staff from either hospital.

Can the patient be detained for treatment in the general hospital?

Yes. In exceptional circumstances and if the patient continues to need ongoing medical treatment and care in the general hospital, the patient may be detained for treatment for their mental illness or severe mental impairment in the general hospital.

In this situation the local appropriate Consultant Psychiatrist should assume the responsibilities and role of the **Responsible Medical Officer (RMO)** in relation to the review of the patient's detention and provision of treatment of the mental disorder.

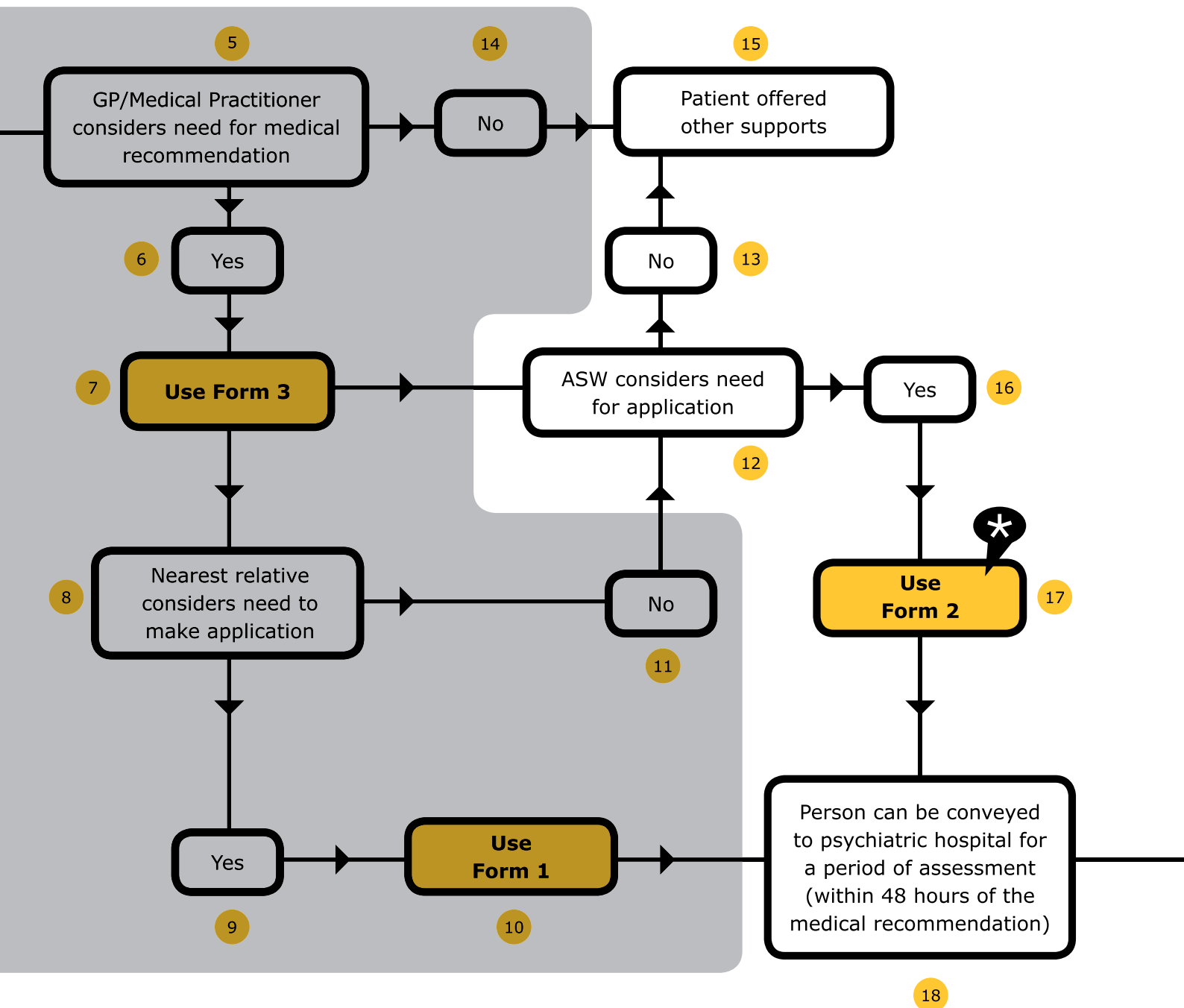
The patient should be transferred as soon as he is medically fit to the appropriate mental health or learning disability hospital.

11

If the nearest relative declines to make the application or objects to the application being made, the GP/medical practitioner should contact and request the duty ASW attend with a view to making the application. The medical practitioner should advise the nearest relative of his rights, including the right to consultation with the ASW and a right to object should the ASW choose to proceed with the application.



APPLICATION - Approved Social Worker



APPLICATION

Approved Social Worker:

- 12 The ASW should consider the need to make an application.

In most situations the GP/medical practitioner will have consulted with the ASW at an early stage and in most cases the ASW will act as the applicant, as the Code encourages. However if

- The nearest relative has chosen not to exercise his legal right to make the application and has requested that an ASW consider making the application or
- The nearest relative has refused and objects to an application being made for the person's compulsory admission to hospital for assessment

the GP/medical practitioner should contact the ASW and request that an application for the person to be admitted to hospital for assessment to be considered.

What statutory duties does the ASW have in this situation?

Article 40 of the Order places a duty on the ASW to make an application where he is satisfied that **an application ought to be made** and that it is **necessary or proper** for the application to be made by him. **LINK TO ROLE OF ASW**

The ASW is required to have seen the person, whose detention is sought, within the 2 days prior to making the application.

The **Code 2.14** states that:

To satisfy himself that it is necessary and proper to do so the ASW must interview the patient in person. The Guide and Code both provide general requirements and guidance in relation to how the interview should be conducted.

What statutory duties does the ASW have in this situation? cont'd

The ASW is required to identify the patient's nearest relative and ensure that his statutory duties to the nearest relative are fulfilled. These include consulting with the nearest relative prior to making the application or if this is not practicable as soon as possible following the patient's detention for assessment. If the nearest relative objects the ASW has a statutory duty to consult with a second ASW before proceeding. **LINK TO ROLE OF NEAREST RELATIVE**

In addition the Code states that the ASW should:

- Ascertain the nearest relative's views about the patient's needs and his (the relative's) own needs in relation to the patient and inform the nearest relative of the reasons for considering an application for admission under the Order and the effects of making an application;
- Take account of any wishes expressed by other relatives of the patient and any close friends or any other relevant circumstances when deciding whether or not to make the application;
- Consult with the doctor who made the medical recommendation and other health and social care professionals and others who have been involved in the patient's care. **Code 2.16-2.19**

- 13 The ASW should not make the application if he is not satisfied that such an application is the most appropriate way of meeting the person's needs.

The Code 2.29 states that the ASW must advise and discuss the reasons for not making the application with the GP/medical practitioner who has completed **Form 3** and the nearest relative. The ASW should also advise the nearest relative of his right to apply and suggest that he consults with GP/medical practitioner if he wishes to consider this alternative.

The ASW is required under **Article 40 (4)** to provide the nearest relative with a written statement of the reasons for not applying for the patient's admission if the ASW has been acting on the request of the nearest relative.

This statement should contain sufficient details to enable the nearest relative to understand the decision whilst at the same time preserving the patient's right to confidentiality.

- 15 If the ASW and GP/medical practitioner agree that the criteria are not met or if the ASW considers that the application ought not be made, both professionals should consider, if possible in consultation with the individual, their family/carers and other professionals, other supports/interventions that could be put in place to meet the person's needs.

The Code 2.28-2.29 advises that any alternative plan should identify a named professional who will have responsibility for ensuring its implementation. It should be recorded in writing and copies made available to all those who need them, subject to the needs of confidentiality.

If appropriate, efforts should be made to persuade the patient to stay in hospital voluntarily.

- 16 If the ASW is satisfied that there are no alternatives to compulsory admission to hospital and that an application ought to be made the ASW should advise the patient, the recommending medical practitioner and the person's nearest relative as soon as possible of this decision.

The ASW must make all efforts to consult with the nearest relative and should delay making the application to allow for this statutory duty to be exercised. However the application **must** be made before the expiry of the **Form 5 holding power period, 48 hours**.

The ASW must consider if it is not reasonably practicable to contact the nearest relative before the holding period expires or would cause unreasonable delay. The ASW should consider the urgency of the patient's situation. The patient may need to be sedated as a matter of urgency if there is a substantial likelihood of serious physical harm to himself or others or to prevent a deterioration in his mental state or the patient's behaviour

may be so disturbed that he may need to be transferred to a more secure environment in another hospital. In this situation the ASW may proceed with the application without consultation with the nearest relative. **Article 5 (3)**

If the nearest relative informs the ASW that he objects, the ASW **must** consult with a second ASW before proceeding with the application. **Article 5 (4)**. The ASW should must advise the nearest relative of the outcome of this consultation and provide information regarding any additional nearest relative rights under the Order.

17

If the ASW considers that admission to and detention in hospital is the most appropriate way of meeting the person's needs and that no alternative to admission is available in the community he must complete **Form 2**. **LINK TO FORM 2** The application must be made to the relevant authority. **LINK TO List of Trust Headquarters Addresses**

If it is not practicable for the ASW to consult with the nearest relative prior to making the application the ASW must make all efforts, if reasonably practicable, to advise the nearest relative as soon as possible following this action.

If **Form 3** was not completed by the person's own GP or a medical practitioner with previous acquaintance with the person, the ASW must record the reasons why on **Form 2**.

Has the ASW "a duty" to make the application?

Yes. **Article 40** states that the ASW has a duty to "make an application for assessment in respect of a patient within the area of the Trust by which that officer is appointed in any case where –

- (a) He is satisfied that an application ought to be made; and
- (b) He is of the opinion, having regards to any wishes expressed by relatives of the patient or any other relevant circumstances, that it is necessary or proper for the application to be made by him"

When should the person whose detention is being sought and the nearest relative be advised of their rights?

The patient and his nearest relative must be advised of the process of assessment and if necessary application for admission for assessment , including their rights, at all times during the assessment process.

LINK TO Patient Information Leaflet and **LINK TO Nearest Relative Information Leaflet** (Example Belfast Health and Social Care Trust leaflet)

18

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The ASW must ensure that both the medical recommendation and application have been properly completed. Care must be taken that the person's name and address and those of the nearest relative are correct, that both forms are properly date and signed, the application and medical recommendation has been made to the appropriate Health and Social Care Trust with correct full address of that Trust on both forms and that the name of the hospital is clearly identified in the application. **See Appendix list of HSCTs.**

Can the person refuse to go to hospital?

No. Once the application is made the person is in the legal custody of the applicant, or a person delegated by him. The detained person will have a right to appeal to the Mental Health Review Tribunal against his detention in hospital once he is admitted.



What if the person has no “fixed abode”, is not a resident of the Trust or the jurisdiction?

In situations where the person is of no fixed abode or is not a resident of the jurisdiction, a bed should be sought in and an application made to the nearest hospital.

In situations where the person is a resident of another Trust area a bed should be sought in and an application made to that Health and Social Care Trust and the appropriate hospital identified.

When must the person be conveyed to hospital?

The Order states that the person must be admitted to hospital within 2 days beginning with the date on which the medical recommendation was made.

Can this period be extended?

Yes, in exceptional circumstances this period can be extended up to 14 days. A Part II doctor must complete **Form 4**, setting out the exceptional circumstances that make the extension necessary. **LINK TO FORM 4**

Article 8 (1) (ii)

How and in what circumstances can this period be extended?

Article 8 (ii) states that in exceptional circumstances the period for the conveyance and admission to hospital can be extended from 2 days to a period of no more than 14 days from the date of the medical recommendation.

Exceptional circumstances might include difficulty in accessing the assistance necessary to transport the person safely to hospital or the patient’s discharge from the general hospital needs to be delayed because of a sudden deterioration in their physical health.

How and in what circumstances can this period be extended? cont'd

In this circumstance the applicant (ASW or nearest relative) must get a certificate in the prescribed form, **Form 4**, from a Part II doctor stipulating the number of days to which it can be extended and giving reasons for the extension. **LINK TO FORM 4**

What if the person is medically unfit for discharge?

If the patient is medically unfit for discharge and requires ongoing in-patient treatment in the general hospital for a significant number of days the Order also allows for the patient to be detained for assessment in the general hospital.

It is recommended that advice continues to be sought through the local liaison psychiatry service including guidance on the detention process.

How may the patient be detained for assessment in a general hospital?

In this situation the medical recommendation, **Form 3** and the application for admission for assessment **Form 1 or 2**, should be made to the Trust with management responsibility for the general hospital with the general hospital named as the hospital in **Form 1 or 2**.

A doctor on the staff of the general hospital should immediately consider and if necessary sign **Form 7** which will last for **48 hours** in this case. Thereafter a **Part II doctor** will be required to sign the detention forms. The care of the patient should be managed jointly by the general hospital and the appropriate local psychiatrist. **LINK TO FORM 7**



How may the patient be detained for assessment in a general hospital? cont'd

The patient should be transferred as soon as he is medically fit to the appropriate mental health or learning disability hospital. In these circumstances consultation should take place between staff in the general and psychiatric or learning disability hospital to agree arrangements for the safe conveyance of the patient when medically fit for transfer. It is expected that the patient will be transferred by ambulance, accompanied by staff from either hospital.

Can the patient be detained for treatment in the general hospital?

Yes. In exceptional circumstances and if the patient continues to need ongoing medical treatment and care in the general hospital, the patient may be detained for treatment for their mental illness or severe mental impairment in the general hospital.

In this situation the local appropriate Consultant Psychiatrist should assume the responsibilities and role of the **Responsible Medical Officer (RMO)** in relation to the review of the patient's detention and provision of treatment of the mental disorder. **LINK TO ROLE OF THE PSYCHIATRIST**

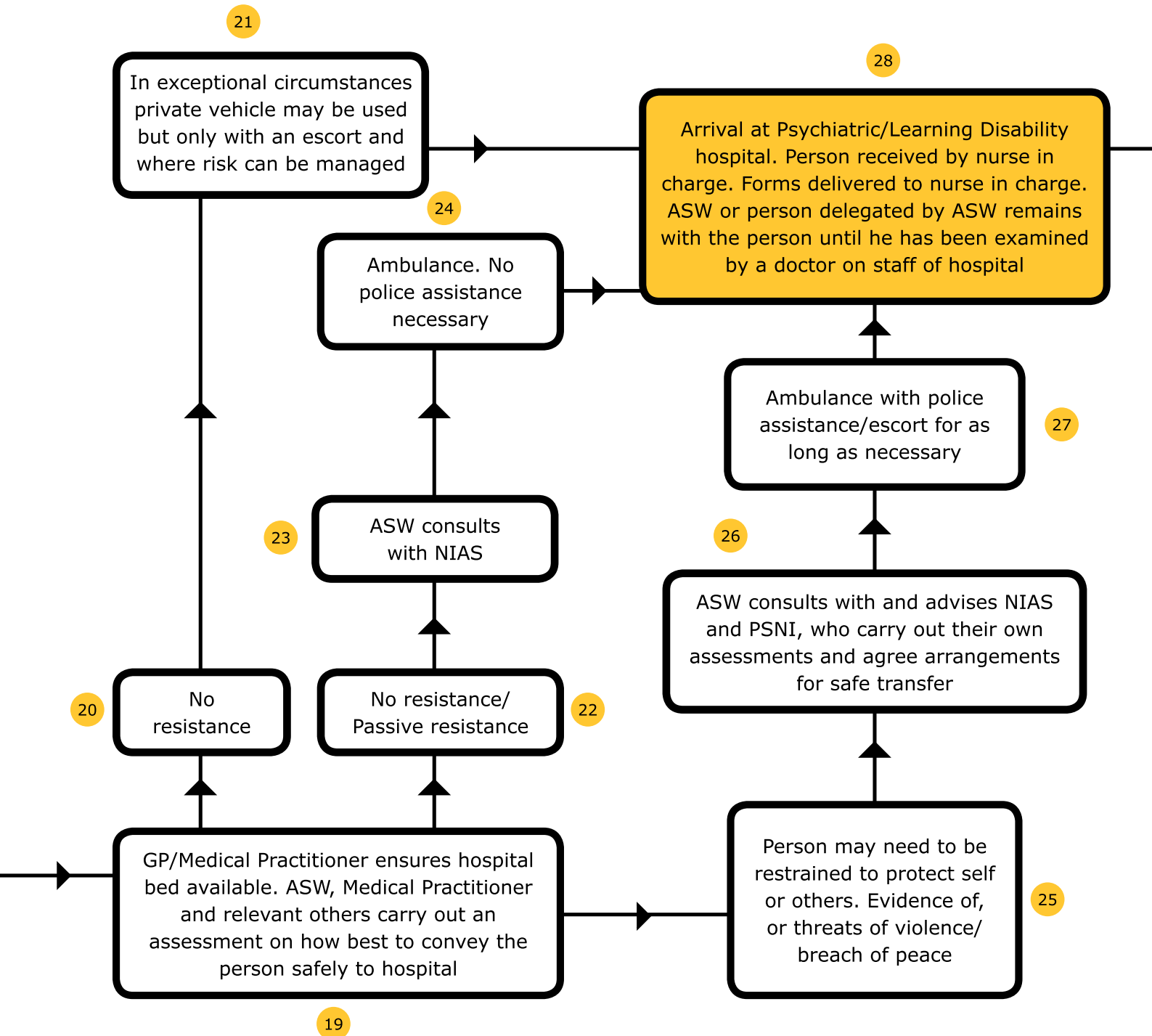
The patient should be transferred as soon as he is medically fit to the appropriate mental health or learning disability hospital.

[< BACK TO CONTENTS >](#)

SAFE CONVEYANCE TO A PSYCHIATRIC OR LEARNING DISABILITY HOSPITAL

[< BACK TO CONTENTS >](#)

SAFE CONVEYANCE TO A PSYCHIATRIC OR LEARNING DISABILITY HOSPITAL



SAFE CONVEYANCE TO A PSYCHIATRIC OR LEARNING DISABILITY HOSPITAL

19

The GP/medical practitioner, who has made the medical recommendation, should clarify if a bed in a psychiatric or learning disability hospital has already been identified by the doctor in the general hospital. If not, the medical practitioner should contact the hospital in the Trust area responsible for the person whose detention is sought to secure a bed. If a bed is not available consultation should take place with the person/persons responsible for bed management in that Trust to ensure that a bed is located in another Trust.

An assessment of how best the person can be conveyed to hospital should be carried out by the ASW and the recommending medical practitioner.

Who has responsibility for ensuring that the person is conveyed to hospital?

If the patient is to be transferred to the psychiatric or learning disability hospital within 2 days of the medical recommendation (**Form 3**), the applicant will have responsibility for ensuring that a person is conveyed to hospital. In most situations the applicant will be the Approved Social Worker.

The ASW has a professional responsibility for ensuring that:

- The person is transported in the **most humane and least threatening** mode of transport consistent with the needs and the safety of the person and any escort/s;
- All the legalities have been observed in relation to the process;
- All necessary arrangements are made for the person's conveyance to hospital and that the Patient is properly admitted to the hospital.



What if the patient's discharge from the general hospital needs to be delayed?

Where it has not been possible to transfer the patient to the mental health or learning disability hospital within the 48 hour holding period, the ASW will not normally be involved. In these circumstances consultation should take place between staff in the general and psychiatric or learning disability hospital to agree arrangements for the safe conveyance of the patient when medically fit for transfer. It is expected that the patient will be transferred by ambulance, accompanied by staff from either hospital.

How will the person be conveyed to hospital?

The Code states that the person will normally be conveyed to hospital by ambulance or other vehicle provided by NIAS.

If the person is medically fit for discharge from the general hospital within the 48 hour application period then the ASW will have the responsibility of ensuring that the person is safely conveyed to hospital.

The ASW should carry out an assessment, if possible in consultation with the medical practitioner and others involved, and consider how best the person can be safely conveyed to hospital. The most appropriate means of transport will depend on and take account of the person's own individual circumstances, needs and wishes and an assessment of the risks that may exist for both the person and others involved in the process.

However in those exceptional circumstances where the patient has been admitted for assessment or detained in hospital for treatment under the Order in the general hospital, and is being transferred when the ASW is unlikely to be involved, those arranging transfer should be mindful of the guidance given to ASWs in the Code of Practice.

The outcome of the assessment may be: 20 or 22 or 25

- 20 The person, while not in agreement with the decision that his detention in hospital should be sought is, nevertheless compliant, **not actively resisting and open to persuasion**. The ASW, if acting as the applicant or when asked to assist the nearest relative, is satisfied that the risk can be managed and there is no risk of danger to the person, to the driver or others on the journey. In this situation the ASW/GP/medical practitioner should consult with NIAS regarding the most appropriate means of transport.
- 21 **In exceptional circumstances** only the person can be conveyed by private vehicle. This is not recommended by the Code and should only be considered as a last resort and only if the person is not resisting, the ASW is satisfied that any risks can be managed, when no alternative is available. When this mode of transport is used an escort must always be present and the application and medical recommendation forms must be in the possession of the driver or escort.
- 22 **The person may not be actively resisting** their conveyance to hospital, or may be stating that they will not co-operate but appear to be open to persuasion, or the person has been sedated or there are concerns for his medical needs.
- 23 The ASW should consult with NIAS and advise them of the particular circumstances of the situation and the outcome of the assessment undertaken by the ASW and medical practitioner regarding the conveyance needs of the person and any risks identified.

In most situations the recommending medical practitioner will request that NIAS attend the scene to assist in the conveyance of the person to hospital. NIAS may before or on arrival at the scene, undertake their own assessment regarding the person's needs in consultation with the ASW and medical practitioner, if present, and agree an appropriate means of transport.



24

Agreement is made that the person can be conveyed to hospital in an ambulance or other NIAS vehicle. The ASW should advise and consult with NIAS personnel involved in relation to any resistance and agree how best to proceed. The ASW or other person (where the ASW is satisfied that this will not create or increase the risk of harm to the person or others) may accompany the person in the ambulance to hospital.

However the ASW will only be able to accompany the person to hospital if all other matters in relation to any vulnerable adults or children are addressed or arrangements for the protection of the person's property have been made.

If not travelling with the patient the ASW should ensure that he arrives at the hospital at the same time as the person or as soon as possible afterwards.

As the person is deemed to be in the custody of the applicant or person delegated by the applicant to convey the person to hospital the statutory forms, the medical recommendation and application should be given to NIAS personnel who are conveying the person to hospital.

The Code of Practice 2.49 advises that a nurse, doctor or ambulance person who is sufficiently skilled in resuscitation techniques and the observation of drowsy or comatose patients should always accompany the person if he has been sedated or there are concerns regarding his medical needs.

25

The person may be actively resisting his conveyance to hospital, exhibiting self-harming behaviour, engaging in violent behaviour or threatening violence or behaving in a way likely to cause serious physical harm to self and/or others or a breach of the peace has occurred or there is a high risk that this may occur. The ASW should contact NIAS and PSNI to request assistance and should discuss his concerns. The ASW and NIAS should consider the risks that may present during the conveyance of the person to hospital and the need for assistance from PSNI given the level of restraint that has or will be required to convey the person to hospital. **LINK TO ROLE OF PSNI**
APPENDIX

In what circumstances should the PSNI be requested to assist in the safe conveyance of a patient to a psychiatric or learning disability hospital?

Such a request should only be made following a comprehensive assessment of the risk involved and when the result of that assessment is that the presence of police is both proportionate and necessary. Police presence may be requested where the ASW or GP/Medical Practitioner identifies a significant risk of:

Violence or the threat of violence being used against those involved in the conveyance of the patient to hospital or to other persons present e.g. family members;

and/or

Self harm by the individual who is being conveyed to hospital.

However the PSNI should **not be routinely** asked to assist in the safe conveyance of a patient to a psychiatric or learning disability hospital.

The PSNI will not attend in cases involving a difficult, but non-violent person whose past history and present diagnosis gives no rise for concern for the safety of other agencies or other agencies in the assessment situation.

26

NIAS and PSNI should be advised of the relevant circumstances of the situation and the risks that pertain and should undertake their own professional risk assessments regarding the immediate situation and conveyance process.

The ASW, medical practitioner, NIAS and PSNI should then agree arrangements for the safe transfer of the patient to hospital.

The police should only be asked to travel with the person in an ambulance or other vehicle in the exceptional circumstances outlined above.



27

The outcome of this assessment and agreement made might be that a police officer/s is required to;

- Follow behind the ambulance or other vehicle so that further assistance is available if and when required;
- Accompany the person in the ambulance or other vehicle so that the officer/s can restrain the person if necessary and to prevent serious physical harm to the persons or others, including preventing the person from attempting to “escape” from the vehicle.

The **Code (2.44)** states that “although the police may have to exercise their duty to protect persons or property while the person is being conveyed, they should, where this is not inconsistent with their duty, comply with any directions or guidance given by the ASW”.

The person who is being conveyed should be advised of any action and the reason why this has been agreed. At all times the level of restraint used, if any, should be minimal and proportionate to the level of risk involved and necessary to ensure the safety of that person and others during conveyance.

Who should advise staff in the hospital named in the Application that the person is to be conveyed to that hospital?

The medical practitioner who has made the medical recommendation will already have ensured that a bed is available for the person whose detention is sought. The ASW or this medical practitioner should, once the conveyance arrangements have been agreed, advise hospital staff of the approximate time of the person’s arrival.

What if the Applicant is unable to get assistance in conveying the person to hospital?

It is recommended that if this situation does occur the applicant (most likely the ASW) should contact a senior officer in the Trust who will seek to liaise with other senior staff in NIAS and/or PSNI to resolve the difficulty (where the nearest relative is the applicant, he should contact the duty ASW for assistance **Code 2.39.**)

What if the person “escapes” while being conveyed to hospital?

While being conveyed to hospital the person is deemed to be in legal custody (**Article 131 (1)**). Should the person escape while being conveyed to hospital, he may be retaken and conveyed to the hospital within the time permitted for his admission, by the person who had custody of him immediately before the escape, or any police officer or **ASW (Article 132 (1)). Code 2.38**

28

On arrival at the hospital the person should be accompanied by the ASW or the person delegated by the ASW. The person should be introduced to and received by the nurse in charge who should take possession of and scrutinise the Forms.

In addition, in the circumstances described in box 27, NIAS and/or PSNI may also be required to escort the person to the admission unit.

Who has responsibility for ensuring the necessary Forms are delivered to the hospital where admission for assessment is sought?

The applicant (ASW or nearest relative), or a person delegated by the applicant has a duty to ensure that the Application, **Form 1 or 2** and Medical Recommendation, **Form 3** have been correctly completed. These forms should always be in the possession of the applicant or person delegated by the applicant until they have been delivered to the nurse in charge on arrival at the hospital.



What should happen to these Forms?

The Medical Recommendation, **Form 3** and Application forms, **Form 1 or 2** and any other forms, for example **Form 4**, that have been used in the assessment for admission to hospital process are, and should be treated, as legal documents. These and any reports that follow should be forwarded through arrangements in the receiving Health and Social Care Trust to RQIA. Minor errors may be amended under **Article 11** of the Order during the period of 14 days beginning with the date of admission prior to this.

Medical recommendations or reports which do not provide sufficient evidence to warrant detention in hospital for assessment may be disregarded and replaced during this period. However, more serious errors cannot be rectified and may invalidate the entire detention process. These include failure to complete detention forms or reports within the timescales set out in the Order or failure to comply with statutory requirements i.e. failure to interview the patient. **LINK TO Appendix Scrutiny and Rectification of Documents**

What should the ASW do if he has not accompanied the person to hospital?

The ASW, if not travelling in the vehicle with the person, should arrive at the receiving hospital at the same time as the person or as soon as possible afterwards. The ASW should ensure that the admission documents have been delivered and that the process of admission, including the medical examination is underway. The ASW should also ensure that all relevant information is passed to appropriate hospital personnel in the hospital.

At what point is the person actually subject to detention in hospital?

The person is subject to detention once the doctor on the staff of the hospital has completed **Form 7**. The person is **not** therefore subject to detention prior to this action. For this reason, the ASW (or a person delegated by the ASW) should remain until the patient has been examined and the process of admission has been completed.



[< BACK TO CONTENTS >](#)

[< BACK TO CONTENTS >](#)

COMPULSORY ADMISSION AND DETENTION IN HOSPITAL FOR ASSESSMENT

The purpose of the 14 day period of detention in hospital for assessment is to facilitate a comprehensive multi-disciplinary assessment of the person/patient and a decision as to the need for further detention in hospital for treatment.

What information should be made available to staff in the admitting hospital?

In addition to that contained in **Form 3** and **Form 1** or **2**, the Approved Social Worker, if involved in the detention process, will prepare and submit an initial and/or more detailed report outlining the circumstances of his assessment and subsequent decision to make application for the person's detention in hospital for assessment **See ASW Report Pro-forma and Guidance (MHO A and MHO B) Appendix Section.**

These reports will also contribute to the Comprehensive Risk Assessment if indicated. **LINK TO 'Promoting Quality Care – Good Practice Guidance on the Assessment and Management of Risk in Mental Health and Learning Disability Services – May 2010**

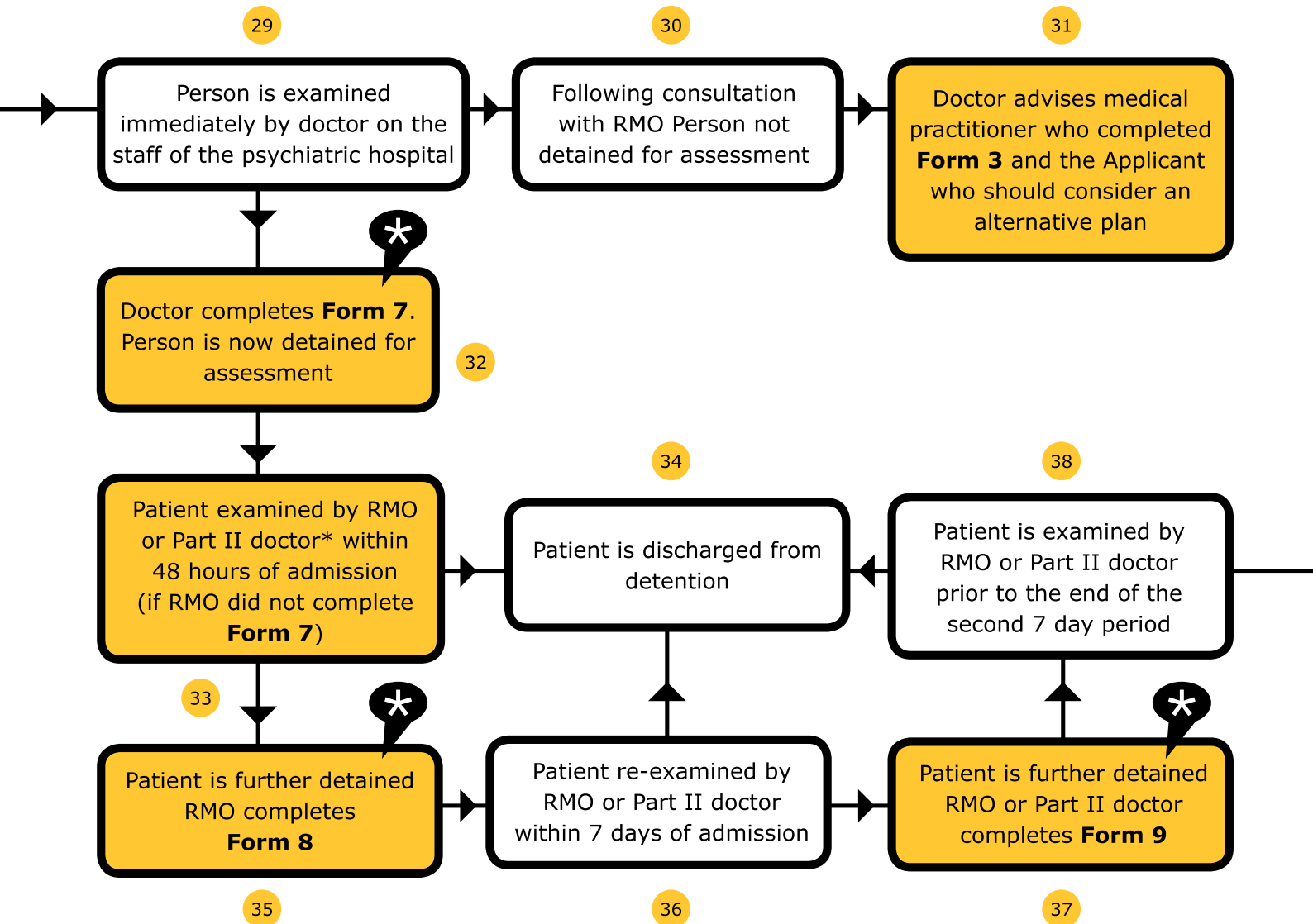
If the nearest relative completed the application for admission (**Form 1**) the responsible Health and Social Care Trust is required under **Article 5 (6)** to direct a social worker to interview the patient and provide the RMO with a report on the patient's social circumstances. This should also be considered as part of the assessment of the patient's needs. **See Pro-forma for Social Circumstances Report (MHO D) and Guidance in Appendix Section**

The outcome of the assessment will be the development of a multi-disciplinary treatment and care plan to address the patient's needs.

The Patient and his nearest relative must be advised of their rights to appeal to the Mental Health Review Tribunal for a hearing, at all key stages of the assessment and detention for treatment process.



COMPULSORY ADMISSION AND DETENTION IN HOSPITAL FOR ASSESSMENT



Patient is advised of his Rights including the right to appeal to the Mental Health Review Tribunal

COMPULSORY ADMISSION AND DETENTION IN HOSPITAL FOR ASSESSMENT

- 29 A doctor on the staff of the hospital should examine the person immediately on arrival. **LINK TO ROLE OF THE PSYCHIATRIST**

It is important that the examination is carried out as a matter of urgency. Until the person has been formally admitted under **Article 9** he can only be prevented from leaving the hospital by the applicant or person delegated by the applicant on the basis of the powers to “take and convey” conferred on the applicant under **Article 8** of the Order. The doctor should consider information contained in the preliminary ASW report. **See ASW MHO A Pro - forma in Appendix section.**

- 30 **The examining doctor may decide not to proceed with the admission** on the grounds that the person does not meet the criteria for detention in hospital. However the Code states that a decision to reject the application on examination of the patient should not be taken lightly. Such a decision should only be taken on the judgement of a Part II doctor, normally after consultation with, and, if possible the agreement of, the doctor who made the recommendation for admission. If following such consultation this decision remains **Form 7** should be completed accordingly. The person should be advised of this decision and/or, if appropriate, offered in-patient care as a voluntary patient. **The Code 2.60** states that the examining doctor must also inform the doctor who made the medical recommendation and the applicant of this decision in writing.

- 31 If the person is deemed not to meet the criteria for admission for assessment the doctor should immediately advise the medical practitioner who has made the initial medical recommendation. **Code 2.60**. In this event the doctor who made the medical recommendation for admission should, with the other professionals concerned, decide what action is needed to meet the person’s needs, including the possible provision of other health and social care services, and decide how to implement that action.

32

If the person is considered to meet the criteria for admission for assessment, the admitting doctor must complete **Form 7** accordingly. This must include a clinical description of the patient's mental condition which justifies the detention. The doctor should advise the person. **LINK TO FORM 7**

The person must also be advised of his rights including the right to appeal to a Mental Health Review Tribunal. Nursing staff should provide this information in both verbal and written form and should take account any communication difficulties that might exist. This information may need to be relayed on a number of occasions to ensure that it is sufficiently understood. Advocacy services may also provide support.

Are there any particular considerations that should be made in relation to a child or young person?

The process of assessment, recommendation and application, detention for assessment and treatment and discharge from detention are the same for each individual regardless of age.

However the Code states that it is always preferable for children and young people admitted to hospital to be accommodated with others of their own age group in children's wards or adolescent units, separate from adults.

The Department has issued guidance to Trusts on how best to meet the needs of children and young people who require in-patient assessment and if necessary treatment in relation to mental disorder in those exceptional circumstances where no appropriate children's placement is available.

Are there any particular considerations that should be made in relation to a child or young person? cont'd

The Regional Health and Social Care Board has also directed (August 2010) that the admission of an under 18 year old person to an adult Mental Health or Learning Disability Facility be considered as an "Untoward Event". Staff should follow Trust Guidance in relation to the process which should be followed when this occurs.

LINK TO Under 18 Year Olds in Adult Mental Health Facilities (Letter) and LINK TO Under 18 Year Olds in Adult Learning Disability Facilities (Hsc (Mhdp) 01/2008

RQIA closely monitor and review the in-patient assessment, treatment and care of children and young people in psychiatric and learning disability facilities. **LINK TO RQIA Independent Review of Child and Adolescent Mental Health Services (CAMHS) in Northern Ireland. February 2011**

33 The patient (previously referred to as the person) must be examined by the Responsible Medical Officer (RMO) or Part II doctor (if the admitting doctor was not either of these) within 48 hours of admission. The RMO or Part II doctor should, following the examination, consider whether the patient should be further detained or discharged from detention. **LINK TO ROLE OF THE PSYCHIATRIST**

34 If the RMO or Part II doctor considers that the patient no longer meets the criteria for detention he must be discharged from that detention. The patient should be advised as soon as possible that he can leave hospital or, if appropriate, offered in-patient care as a voluntary patient.

35 If the RMO or Part II doctor considers that the patient should continue to be detained the **Form 8** should be completed. The patient and the nearest relative must be advised of this detention and of their rights including the right to appeal the detention to the Mental Health Review Tribunal.
LINK TO FORM 8

- 36 The patient must be formally re-examined by the RMO or Part II doctor within 7 days of the admission to consider whether the criteria continue to be met.

Can the person receive treatment for his mental disorder during the 14 day assessment period?

Yes, if the person gives his consent to the treatment. The Code states that common law, as it relates to consent to treatment, applies to all patients whether voluntary or detained.

Consent is defined in the **Code 5.8** as “the voluntary and continuing permission of the patient for a particular form of treatment to be given, based on an adequate knowledge of its nature, purpose, and likely effects”.

Are there any exceptions to this?

Yes. In certain situations patients may be given medical treatment during the assessment period. **See Consent to Treatment Chapter.**

- 37 If the RMO or Part II doctor considers that the patient should continue to be detained then **Form 9** should be completed. The patient and his nearest relative should again be advised of their rights including the right to appeal the detention to the Mental Health Review Tribunal. **LINK TO FORM 9**

38

The patient must be formally re-examined by the RMO or Part II doctor prior to the end of the second 7-day period. The purpose of this examination is to consider whether or not it is necessary to detain the patient for a period of treatment, following the expiry of the 14-day period of assessment. The criteria for detention for treatment therefore need to be considered.

What are the criteria for detention in hospital for treatment?

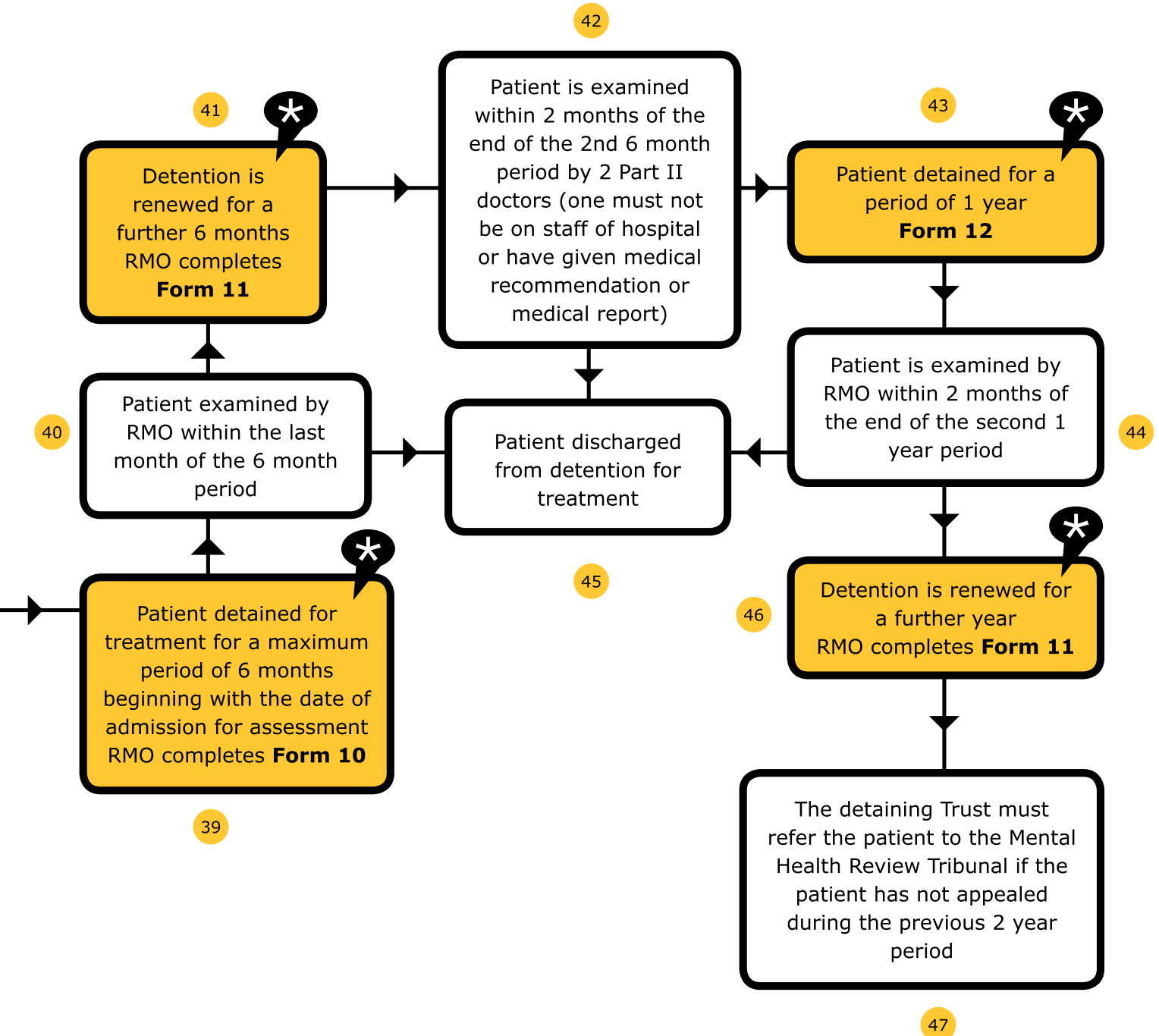
The criteria for detention in hospital for treatment are set out in **Article 12** of the Order. A person can be detained for treatment if the examining doctor considers that the patient is:

- Suffering from mental illness or severe mental impairment* of a nature or degree which warrants detention in hospital for medical treatment and
- Failure to detain the patient would create a substantial likelihood of serious physical harm to the patient or to other persons.

* Severe mental impairment is defined as a state of arrested or incomplete development of mind which includes severe impairment of intelligence and social functioning and is associated with abnormally aggressive or seriously irresponsible conduct on the part of the person concerned.



DETENTION FOR TREATMENT IN HOSPITAL



DETENTION FOR TREATMENT IN HOSPITAL

The purpose of detention for treatment in hospital is to allow for the implementation of the initial treatment and care plan agreed as part of the assessment in hospital process in circumstances where the patient meets the criteria for detention for treatment. SEE CONSENT TO TREATMENT CHAPTER

What is the definition of medical treatment in the Order?

Medical treatment is defined in **Article 2(2)** of the Order as including “nursing and also includes care and training under medical supervision”. The Code states that this “acknowledges that modern psychiatric care is a team activity involving several disciplines, including psychiatry, clinical psychology, nursing, occupational therapy and social work”.

Since the publication of the Code peer advocates and carers also have a significant and valuable role to play in the overall care and treatment of patients in hospital and in the community.

All those involved in the treatment of patients should ensure that their practice is compatible with the Principles of Treatment contained in the Code of Practice.

- 39 If the RMO or another Part II doctor in the absence of the RMO considers that the patient should be detained for a period of treatment **Form 10** should be completed before the expiry of the 14-day assessment period. The doctor is required to give a clinical description of the patient’s condition and justify the need for detention.

The patient and nearest relative must be advised accordingly.

Form 10 should not be completed by the same doctor who gave the medical recommendation on which the original application was founded. **LINK TO FORM 10**

How and when is a patient informed of his rights?

The patient must be advised of his rights at each stage of the detention process including the right to appeal to a Mental Health Review Tribunal. Nursing staff should provide this information in both verbal and written form and should take account any communication difficulties that might exist. This information may need to be relayed on a number of occasions to ensure that it is sufficiently understood. Advocacy services may also provide support.

What should happen during the patient's detention in hospital?

While detained in hospital the patient's progress and care plan must be continually reviewed. The patient must be discharged from detention as soon as his condition improves and the criteria for detention are no longer met.

- 40 The patient must be examined by the RMO within a month of the end of the initial 6-month period of detention.
- 41 If the decision is made that the patient still meets the criteria for detention for treatment the RMO the patient and nearest relative should be advised accordingly. The RMO should complete **Form 11**. This allows the patient to be further detained for a further period of up to 6 months. **LINK TO FORM 11**
- 42 As the next detention period is for a further 12 months the Order makes provision for extra safeguards for the patient to ensure that the patient's interests are protected.

Two Part II doctors must examine the patient within the two months of the end of the second 6-month period of detention.

One of these doctors must not be on the staff of the hospital where the patient is being detained and must not previously have been involved in giving any medical recommendation or report on the patient. The other doctor is usually the RMO.

The patient and his nearest relative must be informed that these examinations are to take place, at least 14 days in advance.

43 If the decision is made that the patient still meets the criteria for detention for treatment the person and nearest relative should be advised accordingly. In this instance the **two** Part II doctors should jointly complete and sign **Form 12**. This allows the person to be detained for a period of up to 1 year. The patient and his nearest relative should again be advised of their rights including the right to appeal the detention to the Mental Health Review Tribunal. **LINK TO FORM 12**

44 The RMO must examine the patient within 2 months of the expiry of the first 1-year detention period (this will in fact be within 2 years of the total period beginning with the initial date of admission) to consider whether the patient still meets the criteria for detention for treatment.

45 If the patient does not meet the criteria for further detention for treatment the patient and his nearest relative should be advised accordingly. The patient should be discharged from detention and if appropriate, offered in-patient treatment as a voluntary patient.

46 If the decision is made that the patient still meets the criteria for detention for treatment the person and nearest relative should be advised accordingly. The RMO should again complete **Form 11**. This allows the patient to be detained for treatment for an additional period of up to 1 year if necessary. **LINK TO FORM 11**

The same process will follow at every yearly period thereafter i.e. examination by the RMO with 2 months of the expiry and completion of **Form 11** if necessary.



The patient and his nearest relative should again be advised of their rights including the right to appeal the detention to the Mental Health Review Tribunal.

47

Patients and nearest relatives have a right to appeal against the detention during both the detention for assessment and treatment periods. Further information regarding when and how this may be done is contained in the Mental Health Review Tribunal section of this Guidance.

The patient must be advised on a regular basis throughout the period of detention for assessment and for treatment of his right to apply to the **Mental Health Review Tribunal** (once within the first 6 months, once during the second 6 months and once during each subsequent 1 year period of detention) and a record kept of this. Staff advising him must ensure that repeated offers are made to explain this, especially when the patient's illness affects his understanding. Most mental health and learning disability services have advocates who will also do this informally.

The detaining Health and Social Care Trust also has a statutory responsibility to refer the case of a patient who has not appealed during the previous 2 year period.

May patients be granted leave from hospital during the period of detention for treatment?

Leave of absence may be given either for specified occasions or a specified period, often to help prepare the patient for discharge. **Article 15** It should be considered part of the patient's treatment plan. Leave cannot be granted for more than 27 days at a time without informing the RQIA of the patient's address.

The Responsible Medical Officer is responsible for the care and treatment of the detained patient and must ensure that appropriate arrangements are in place for the patient's supervision whilst absent on leave.

May patients be granted leave from hospital during the period of detention for treatment? cont'd

The Responsible Medical Officer can impose any conditions on the leave he thinks necessary in the interests of the patient or for the protection of other people and may recall a patient before the end of the period for which he was originally granted leave, if he believes it to be in the interests of the patient or for the protection of other persons. If the patient refuses to return at the appointed time he may be taken into custody and returned to hospital. These processes are set out in **Article 29 and paragraphs 107 and 108 of the Guide**. In a situation where the patient is in a private place and access is denied or prevented a Warrant can be sought to gain entry and remove the patient. **SEE Warrants Appendix**

What should happen if a detained patient leaves hospital without permission?

While a patient is subject to detention in hospital that patient is in the legal custody of the detaining Health and Social Care Trust. **Article 29** provides powers to return a patient who is absent without leave to the hospital where he is required to stay. He may be returned by any officer on the staff of the hospital, any police officer, an approved social worker or any person authorised in writing to do so by the Trust. If necessary a warrant can be sought under **Article 129** of the Order to gain access to and remove the patient. Any person who assists a patient to leave hospital or obstructs those involved in gaining access to or returning the patient to hospital may be considered to have committed an offence under the Order. **LINK TO OFFENCES SECTION**



When must the patient be discharged?

The Responsible Medical Officer has a duty to discharge the patient from detention if he is satisfied that the criteria are no longer met.

This will follow consultation with the patient, the multidisciplinary team and the patient's family, including the nearest relative.

In this instance, 'discharge' means discharge from detention. It does not mean that a person must leave hospital.

Article 14 of the Order directs that "a patient who is for the time being liable to be detained under this Part shall cease to be so liable if an order in writing discharging him from detention is made in respect of him by the Responsible Medical Officer (RMO), the responsible authority or his nearest relative".

The RMO should complete **INTERNAL FORM 4** "Order of Discharge of Patient liable to be detained in hospital by RMO".

The patient may also be discharged following an application by the nearest relative or, following a decision by the Mental Health Review Tribunal or in some circumstances by the Trust.

An order to discharge cannot be made before the nearest relative gives notice in writing to the detaining Health and Social Care Trust. **INTERNAL FORM 5**. If the RMO then provides a written report to the Trust within 72 hours of this order in which he objects to the discharge, such a discharge cannot proceed. **INTERNAL FORM 6**

How should risks be managed on discharge from detention in hospital?

Assessment and management of risk begins at first presentation of the person/patient and is an integral part of a person's mental health assessment, treatment and discharge. The same principles apply whether a person is detained under the Order or not. Particular factors must be considered at discharge and local protocols and procedures have been developed in all Health and Social Care Trusts.

The main guidance is **Promoting Quality Care – Good Practice Guidance on the Assessment and Management of Risk in Mental Health and Learning Disability Services May 2010** which can be found at **LINK TO Promoting Quality Care – Good Practice Guidance on the Assessment and Management of Risk in Mental Health and Learning Disability Services May 2010**

This includes:-

- Introduction and purpose
- Good practice principles
- Fundamentals of risk management
- Working with risk as part of everyday practice
- Learning from adverse incidents
- Improving the quality of risk management
- The way forward
- Risk assessment and management tools.

What should be done with all the Prescribed Forms/Reports used in the detention for assessment and treatment in hospital process?

All forms should be carefully completed. These are legal documents and should be treated as such. **Forms 7, 8, 9, 10, 11 and 12**, also referred to as "reports", must be furnished to and accepted by the detaining Health and Social Care Trusts.

All Forms must also be copied and immediately forwarded to RQIA. **LINK TO Appendix Scrutiny and Rectification of Documents**



[< BACK TO CONTENTS >](#)

[< BACK TO CONTENTS >](#)

ASSESSMENT AND COMPULSORY ADMISSION TO HOSPITAL (PART II)

PATHWAY FOR COMPULSORY ADMISSION TO HOSPITAL
FOR ASSESSMENT AND TREATMENT UNDER THE MENTAL
HEALTH (NORTHERN IRELAND) ORDER 1986

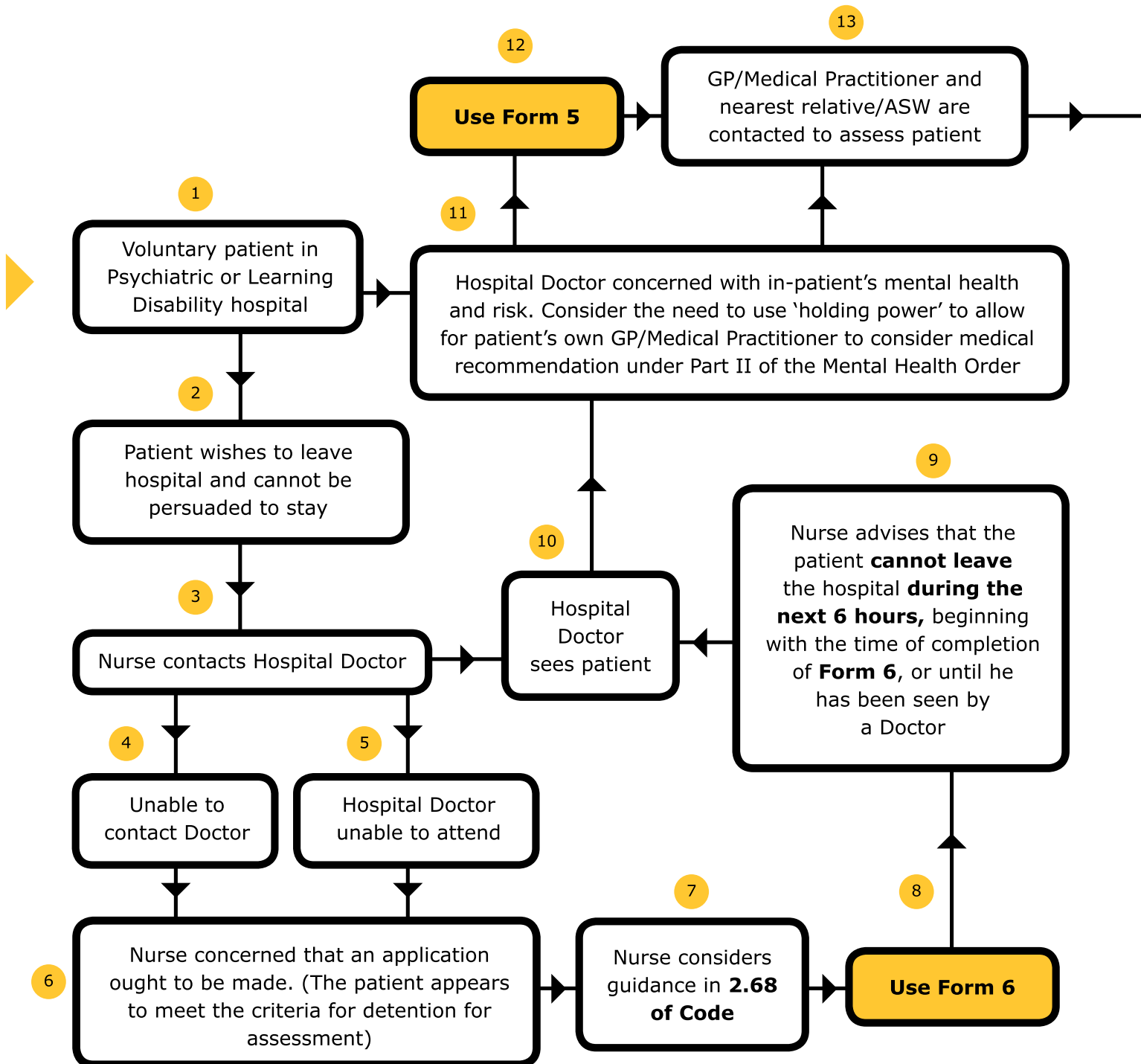
PRESENTATION IN A PSYCHIATRIC OR LEARNING DISABILITY HOSPITAL

Flow Chart 174 - 177

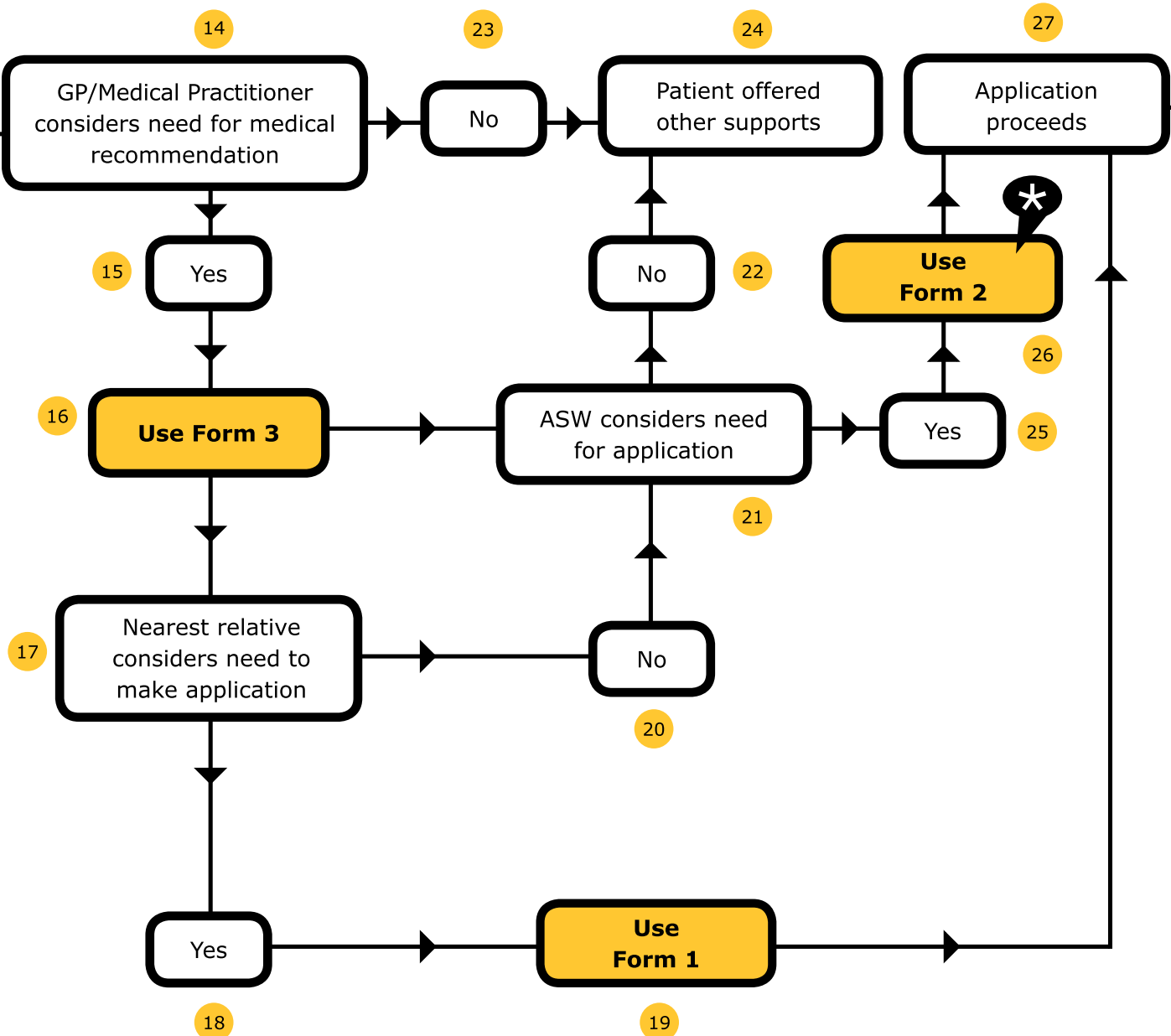
The Flow Chart in Greater Detail 178 - 228

PATHWAY FOR COMPULSORY ADMISSION AND DETENTION IN HOSPITAL FOR ASSESSMENT AND TREATMENT UNDER THE MENTAL HEALTH (N.I.) ORDER 1986

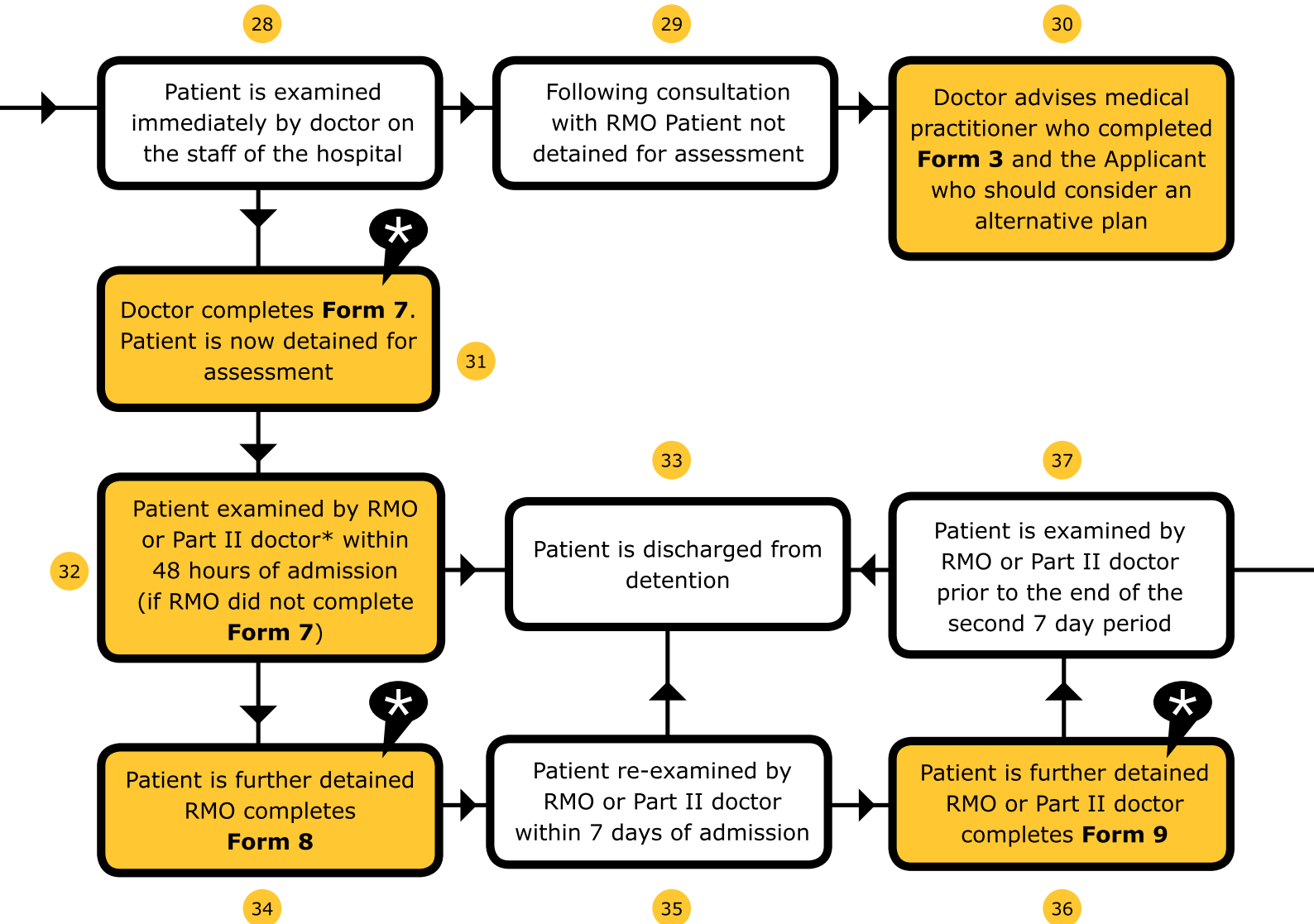
PRESENTATION IN A PSYCHIATRIC OR LEARNING DISABILITY HOSPITAL



APPLICATION

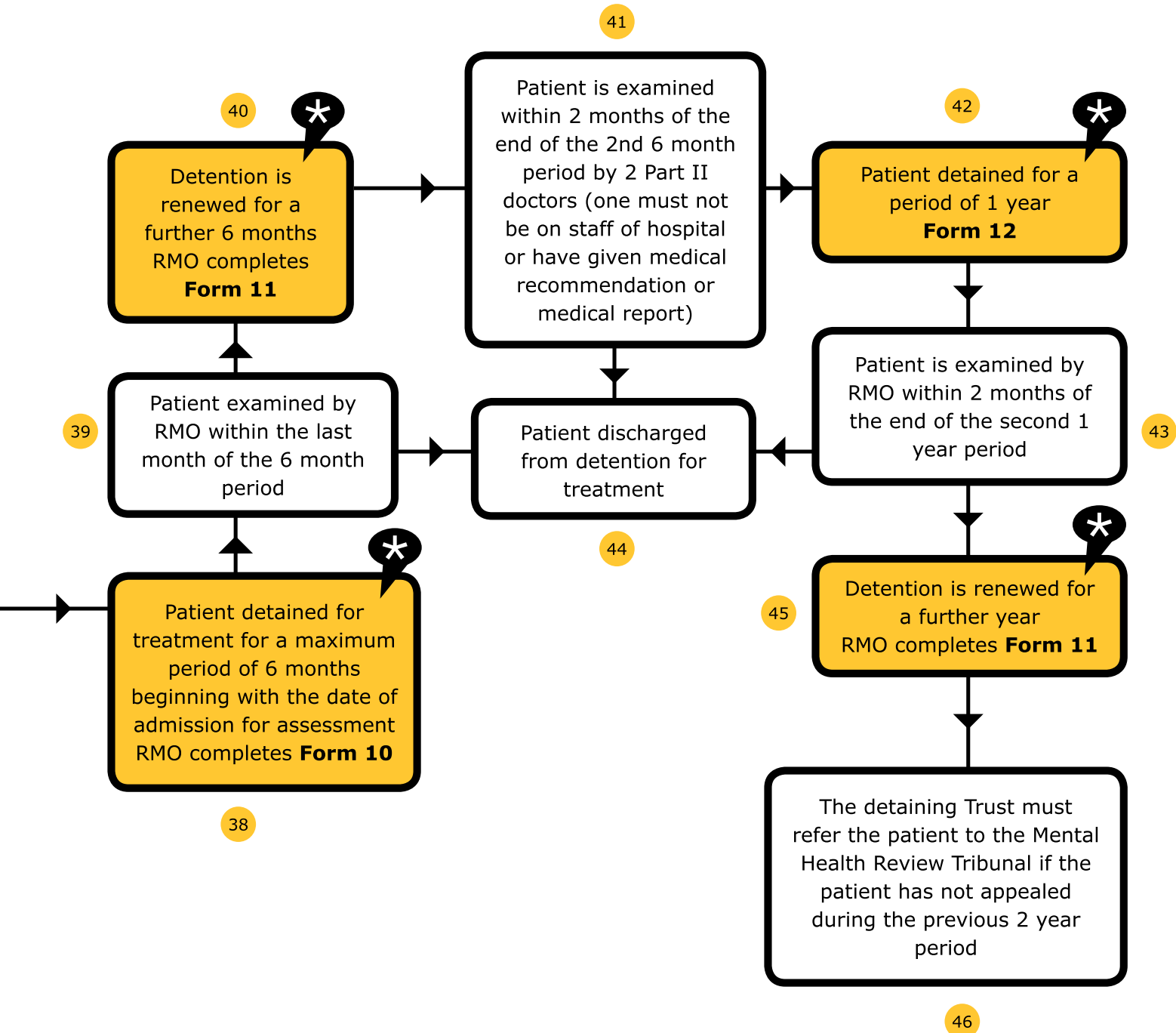


COMPULSORY ADMISSION AND DETENTION IN HOSPITAL FOR ASSESSMENT



Patient is advised of his Rights including the right to appeal to the Mental Health Review Tribunal

DETENTION FOR TREATMENT IN HOSPITAL



PATHWAY FOR COMPULSORY ADMISSION TO HOSPITAL FOR ASSESSMENT AND TREATMENT UNDER THE MENTAL HEALTH (NORTHERN IRELAND) ORDER 1986

THE FLOW CHART IN GREATER DETAIL

PRESENTATION IN A PSYCHIATRIC OR LEARNING DISABILITY HOSPITAL

Introduction:

The Order allows for an in-patient in a psychiatric hospital or learning disability hospital, not already subject to detention under the Order, to be detained in hospital in certain circumstances.

This action can be taken when there is concern that a patient, who may be liable to be detained for assessment, is seeking to leave hospital or there is a possibility that the patient will leave before an application can be made.

The powers to detain a patient in hospital in these circumstances are commonly known as **"Holding Powers"** and can be exercised by a medical practitioner or nurse.

These are holding powers only to allow time, no longer than **48 hours**, for the patient's medical practitioner and the applicant to consider making a medical recommendation and application, and cannot be extended. Patients cannot be forced to take treatment or transferred to another hospital during these time periods.

Holding powers should not be used unless there is a genuine intention on behalf of the doctor or nurse to proceed with an assessment in relation to a detention for assessment.

Hospital staff must ensure that the attendance of the patient's medical practitioner, preferably his GP, the ASW and nearest relative is requested as soon as possible after **Form 5** has been completed.

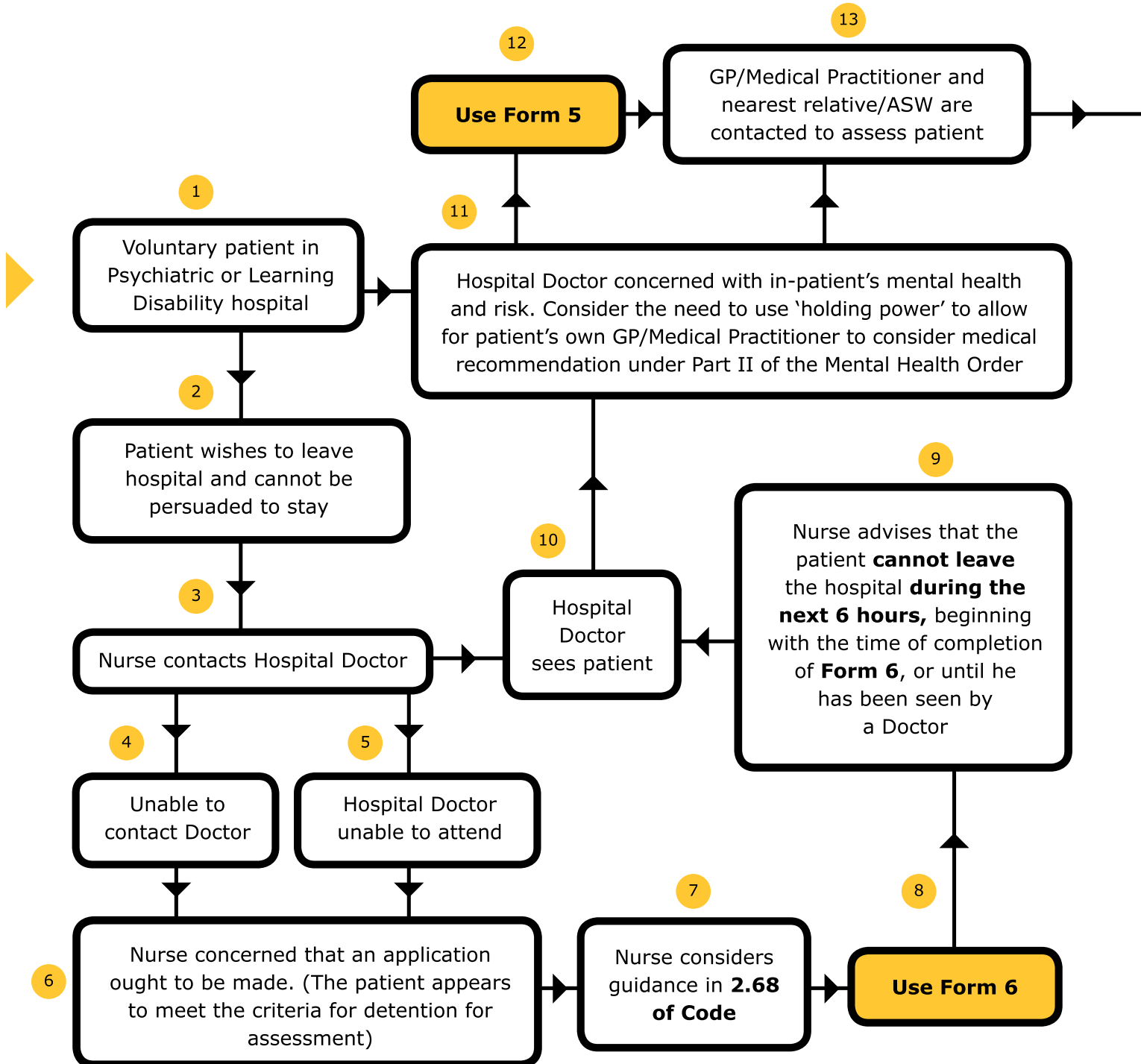
Can these "holding powers" be used in relation to a person attending an A&E or hospital out-patient department?

No. The holding powers described in the previous paragraph are only applicable to a person who is an "in-patient" at that time. The **nurse's** holding power can only be used in a psychiatric or learning disability hospital.



PATHWAY FOR COMPULSORY ADMISSION AND DETENTION IN HOSPITAL FOR ASSESSMENT AND TREATMENT UNDER THE MENTAL HEALTH (N.I.) ORDER 1986

PRESENTATION IN A PSYCHIATRIC OR LEARNING DISABILITY HOSPITAL - Presenting to a Hospital Nurse



PRESENTATION IN A PSYCHIATRIC OR LEARNING DISABILITY HOSPITAL

Presenting to a Hospital Nurse:

- 1 The person is a voluntary in-patient, i.e. not subject to detention under the Order and is receiving treatment for mental disorder in a psychiatric or learning disability hospital. **Article 7**
 - 2 A suitably qualified nurse on staff of the hospital is concerned that the patient is indicating that he wants to leave hospital and cannot be persuaded to stay. **LINK TO ROLE OF NURSE**
 - 3 The Nurse contacts a doctor on the staff of the hospital to advise of concerns and request that the patient is medically examined.
 - 4 The nurse makes repeated attempts to contact a doctor on the staff of the hospital and is unable to do so.
- or
- 5 The nurse is advised that a doctor on the staff of the hospital is unable to immediately attend.



6

The nurse is of the opinion that:

- An application for assessment ought to be made in respect of the patient; and
- It is not practicable to secure the immediate attendance of a doctor.

What are the criteria for admission for assessment?

Article 4 (2) states that an application for assessment may be made in respect of a patient on the grounds that –

- a) He is suffering from mental disorder of a nature or degree which warrants his detention in a hospital for assessment (or for assessment followed by medical treatment); and
- b) Failure to so detain him would create a substantial likelihood of serious physical harm to himself or to other persons.

7

The nurse considers guidance as set out in **2.68 of the Code** including the potential for the patient to leave before the arrival of the doctor and the possible consequences, including harm that might occur to that person or others if the patient is allowed to leave.

What should the nurse do before using this power?

The Code states that before using the holding power the nurse should assess:

- a) The likely arrival time of the doctor as against the likely intention of the patient to leave. Most patients who express a wish to leave hospital can be persuaded to wait until a doctor arrives, to discuss the matter further. Where this is not possible the nurse must try to predict the impact of any delay upon the patient; and

What should the nurse do before using this power? cont'd

- b) The consequences of a patient leaving hospital immediately including the harm that might occur to the patient or others taking into account:
- What the patient says he will do and his known history;
 - The likelihood of the patient committing suicide;
 - The patient's current behaviour and in particular any changes from usual behaviour;
 - The likelihood of the patient behaving in a violent manner;
 - The availability of appropriate accommodation and support in the home;
 - Any recently received messages from relatives or friends;
 - Any recent disturbance on the ward (which may or may not have involved the patient);
 - Any relevant involvement of other patients
 - Any relevant information from other members of the multi-disciplinary team.

Can the nurse be directed to use this holding power?

No. The code states that the decision to exercise the holding power is at the personal discretion of the nurse who cannot be instructed to exercise this power by anyone else. **Code 2.68**

8

The nurse completes **Form 6**. [LINK TO FORM 6](#)

Can any nurse exercise this "holding power"?

No. The Order states that this should be "a nurse of the prescribed class".
Article 7 (3)

This is now considered to be a registered psychiatric or learning disability nurse in a psychiatric or learning disability hospital who can exercise this power.

- 9 The nurse advises the patient that he is subject to a holding power under **Article 7 (3)** of the Order and cannot leave the hospital within the next 6 hours or until he has been seen by a doctor on the staff of the hospital who should make a decision whether or not a **Form 5** is required.
- 10 The hospital doctor sees the patient.
- 11 The doctor sees the patient, agrees with the nurse's concerns that the patient may be liable to be detained in hospital for assessment, i.e. appears to meet the criteria for detention in hospital for assessment. He is of the opinion that an application ought to be made for the patient to be detained in the hospital until the patient's own GP or another medical practitioner can be contacted to consider making a medical recommendation under Part II.

What are the criteria for admission for assessment?

Article 4 (2) states that an application for assessment may be made in respect of a patient on the grounds that –

- (a) He is suffering from mental disorder of a nature or degree which warrants his detention in a hospital for assessment (or for assessment followed by medical treatment); and
- (b) Failure to so detain him would create a substantial likelihood of serious physical harm to himself or to other persons.

- 12 The doctor cannot persuade the patient to remain in hospital to allow for an assessment to take place by the person's own GP or another medical practitioner and if necessary the ASW/nearest relative.

The doctor completes an application using **Form 5**, setting out reasons why voluntary treatment is not or is no longer appropriate. **LINK TO FORM 5**

The doctor advises the patient that he is now detained under **Article 7 (3)** of the Order and that he cannot leave hospital until he has been seen by his GP or another medical practitioner, with a view to making a medical

recommendation for detention in hospital for assessment. [LINK TO ASW Contacts List](#)

May any doctor/medical practitioner use this power?

No. The Order states that it must be a medical practitioner on the staff of the hospital. **Article 7 (2)**

The doctor ensures that a request is made as a matter of urgency to the patient's GP or another medical practitioner for attendance at the hospital to consider the making a medical recommendation for the patient's detention in hospital for assessment. It may be advisable, at this stage, to advise the patient's next of kin or nearest relative (if known) and the duty ASW of the situation.

May the patient be transferred to another hospital using Form 5?

No. This is a holding power only and the patient cannot be transferred to another hospital. However if necessary and proportionate the patient may be transferred to another ward/facility within the hospital.

May the patient be forced to accept treatment under the Order during the 48 hour holding period?

No.



Who can make the medical recommendation in relation to a patient who is currently an in-patient in a psychiatric or learning disability hospital?

Where practicable the patient's own GP should attend the hospital to give the medical recommendation on which the application would be founded.

A doctor on the staff of the hospital in which it is intended the assessment should be carried out **cannot give the recommendation except in a case of urgent necessity. Article 6 (c)**

The Code states that the Order does not prohibit a doctor on the staff of another hospital from making the medical recommendation, but it is preferable for this to be done by the patient's own GP, or by another practitioner who has previous knowledge of the patient. **Article 6 (b)**

Therefore all attempts should be made by hospital nursing and medical staff involved to ensure that the patient's own GP is requested to attend the hospital to consider and if necessary complete the medical recommendation.

What if the person is not registered with a GP?

In this circumstance the assistance of a medical practitioner should be sought through local emergency primary care arrangements.

13

The doctor ensures that a request is made as a matter of urgency to the patient's GP for attendance at the hospital to consider making a medical recommendation for the patient's detention in hospital for assessment. It is advisable, at this stage, to inform the patient's next of kin or nearest relative (if known) and the duty ASW of the situation. **LINK TO ASW Contacts List**

[< BACK TO CONTENTS >](#)

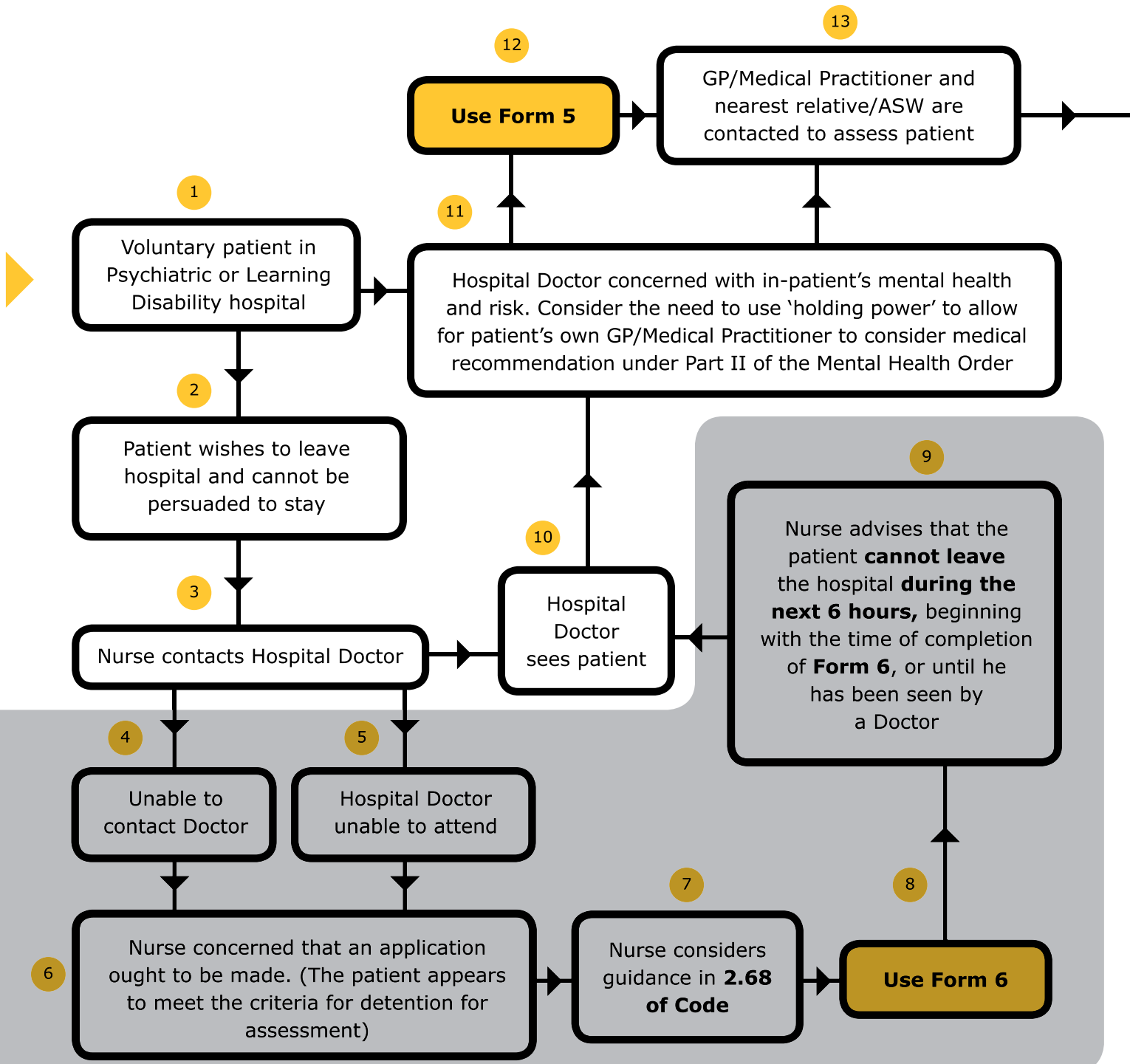
PRESENTATION IN A PSYCHIATRIC OR LEARNING DISABILITY HOSPITAL

PRESENTING TO A HOSPITAL DOCTOR

[< BACK TO CONTENTS >](#)

PATHWAY FOR COMPULSORY ADMISSION AND DETENTION IN HOSPITAL FOR ASSESSMENT AND TREATMENT UNDER THE MENTAL HEALTH (N.I.) ORDER 1986

PRESENTATION IN A PSYCHIATRIC OR LEARNING DISABILITY HOSPITAL - Presenting to a Hospital Doctor



PRESENTATION IN A PSYCHIATRIC OR LEARNING DISABILITY HOSPITAL

Presenting to a Hospital Doctor:

- 1 The person is a voluntary in-patient, i.e. not subject to detention under the Order and is receiving treatment for mental disorder in a psychiatric or learning disability hospital. **Article 7**
- 2 A suitably qualified nurse on staff of the hospital is concerned that the patient is indicating that he wants to leave hospital and cannot be persuaded to stay. **LINK TO ROLE OF NURSE**
- 3 The Nurse contacts a doctor on the staff of the hospital to advise of concerns and request that the patient is medically examined.
- 10 The hospital doctor sees the patient.
- 11 The doctor sees the patient, agrees with the nurse's concerns that the patient may be liable to be detained in hospital for assessment, i.e. appears to meet the criteria for detention in hospital for assessment. He is of the opinion that an application ought to be made for the patient to be detained in the hospital until the patient's own GP or another medical practitioner can be contacted to consider making a medical recommendation under Part II.

What are the criteria for admission for assessment?

Article 4 (2) states that an application for assessment may be made in respect of a patient on the grounds that –

- (a) He is suffering from mental disorder of a nature or degree which warrants his detention in a hospital for assessment (or for assessment followed by medical treatment); and
- (b) Failure to so detain him would create a substantial likelihood of serious physical harm to himself or to other persons.



12

The doctor cannot persuade the patient to remain in hospital to allow for an assessment to take place by the person's own GP and if necessary the ASW/nearest relative.

The doctor completes an application using Form 5, setting out reasons why voluntary treatment is not or is no longer appropriate. **LINK TO FORM 5**

The doctor advises the patient that he is now detained under **Article 7 (3)** of the Order and that he cannot leave hospital until he has been seen by his GP or another medical practitioner, with a view to making a medical recommendation for detention in hospital for assessment.

May any doctor/medical practitioner use this power?

No. The Order states that it must be a medical practitioner on the staff of the hospital. **Article 7(2)**

May the patient be transferred to another hospital using Form 5?

No. This is a holding power only and the patient cannot be transferred to another hospital. However if necessary and proportionate the patient may be transferred to another ward/facility within the hospital.

May the patient be forced to accept treatment under the Order during the 48 hour holding period?

No.

Who can make the medical recommendation in relation to a patient who is currently an in-patient in a psychiatric or learning disability hospital?

Where practicable the patient's own GP should attend the hospital to give the medical recommendation on which the application would be founded.

A doctor on the staff of the hospital in which it is intended the assessment should be carried out **cannot give the recommendation except in a case of urgent necessity. Article 6 (c)**

The Code states that the Order does not prohibit a doctor on the staff of another hospital from making the medical recommendation, but it is preferable for this to be done by the patient's own GP, or by another practitioner who has previous knowledge of the patient. **Article 6 (b)**

Therefore all attempts should be made by hospital nursing and medical staff involved to ensure that the patient's own GP is requested to attend the hospital to consider and if necessary complete the medical recommendation.

What if the person is not registered with a GP?

In this circumstance the assistance of a medical practitioner should be sought through local emergency primary care arrangements.

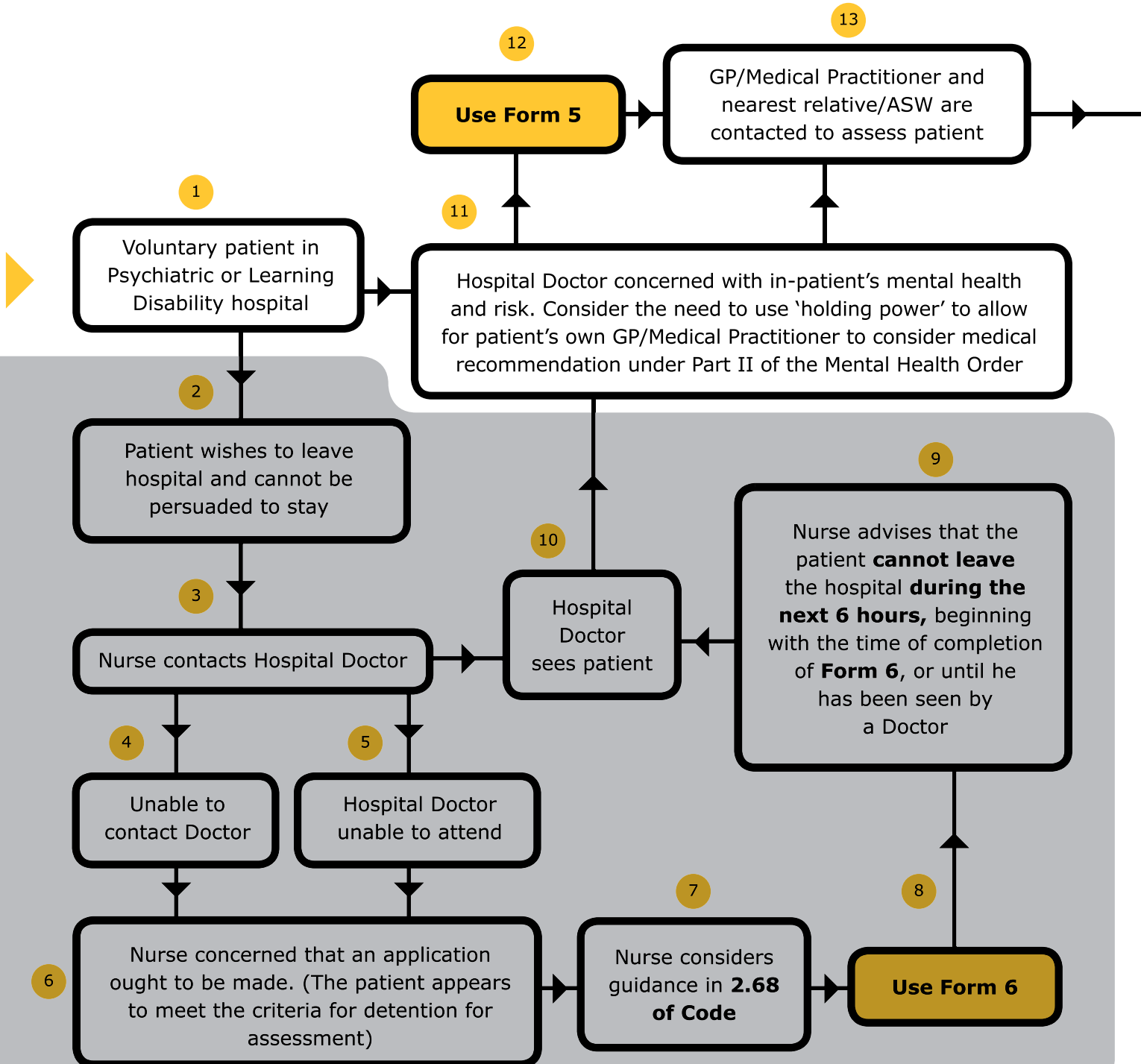
13

The doctor ensures that a request is made as a matter of urgency to the patient's GP for attendance at the hospital to consider the making a medical recommendation for the patient's detention in hospital for assessment. It may be advisable, at this stage, to advise the patient's next of kin or nearest relative (if known) and the duty ASW of the situation. **LINK TO ASW Contacts List**



PATHWAY FOR COMPULSORY ADMISSION AND DETENTION IN HOSPITAL FOR ASSESSMENT AND TREATMENT UNDER THE MENTAL HEALTH (N.I.) ORDER 1986

PRESENTATION IN A PSYCHIATRIC OR LEARNING DISABILITY HOSPITAL - Presenting to a Hospital Doctor



PRESENTATION IN A PSYCHIATRIC OR LEARNING DISABILITY HOSPITAL

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What are the criteria for admission for assessment?

Article 4 (2) states that an application for assessment may be made in respect of a patient on the grounds that –

- (a) He is suffering from mental disorder of a nature or degree which warrants his detention in a hospital for assessment (or for assessment followed by medical treatment); and
- (b) Failure to so detain him would create a substantial likelihood of serious physical harm to himself or to other persons.

12

The doctor cannot persuade the patient to remain in hospital to allow for an assessment to take place by the person's own GP or another medical practitioner and if necessary the ASW/nearest relative.

The doctor completes an application using Form 5, setting out reasons why voluntary treatment is not or is no longer appropriate. **LINK TO FORM 5**

The doctor advises the patient that he is now detained under **Article 7 (3)** of the Order and that he cannot leave hospital until he has been seen by his GP or another medical practitioner, with a view to making a medical recommendation for detention in hospital for assessment.

May any doctor/medical practitioner use this power?

No. The Order states that it must be a medical practitioner on the staff of the hospital. **Article 7 (2)**

May the patient be transferred to another hospital using Form 5?

No. This is a holding power only and the patient cannot be transferred to another hospital. However if necessary and proportionate the patient may be transferred to another ward/facility within the hospital.

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The Code states that the Order does not prohibit a doctor on the staff of another hospital from making the medical recommendation, but it is preferable for this to be done by the patient's own GP, or by another practitioner who has previous knowledge of the patient. **Article 6 (b)**

Therefore all attempts should be made by hospital nursing and medical staff involved to ensure that the patient's own GP is requested to attend the hospital to consider and if necessary complete the medical recommendation.

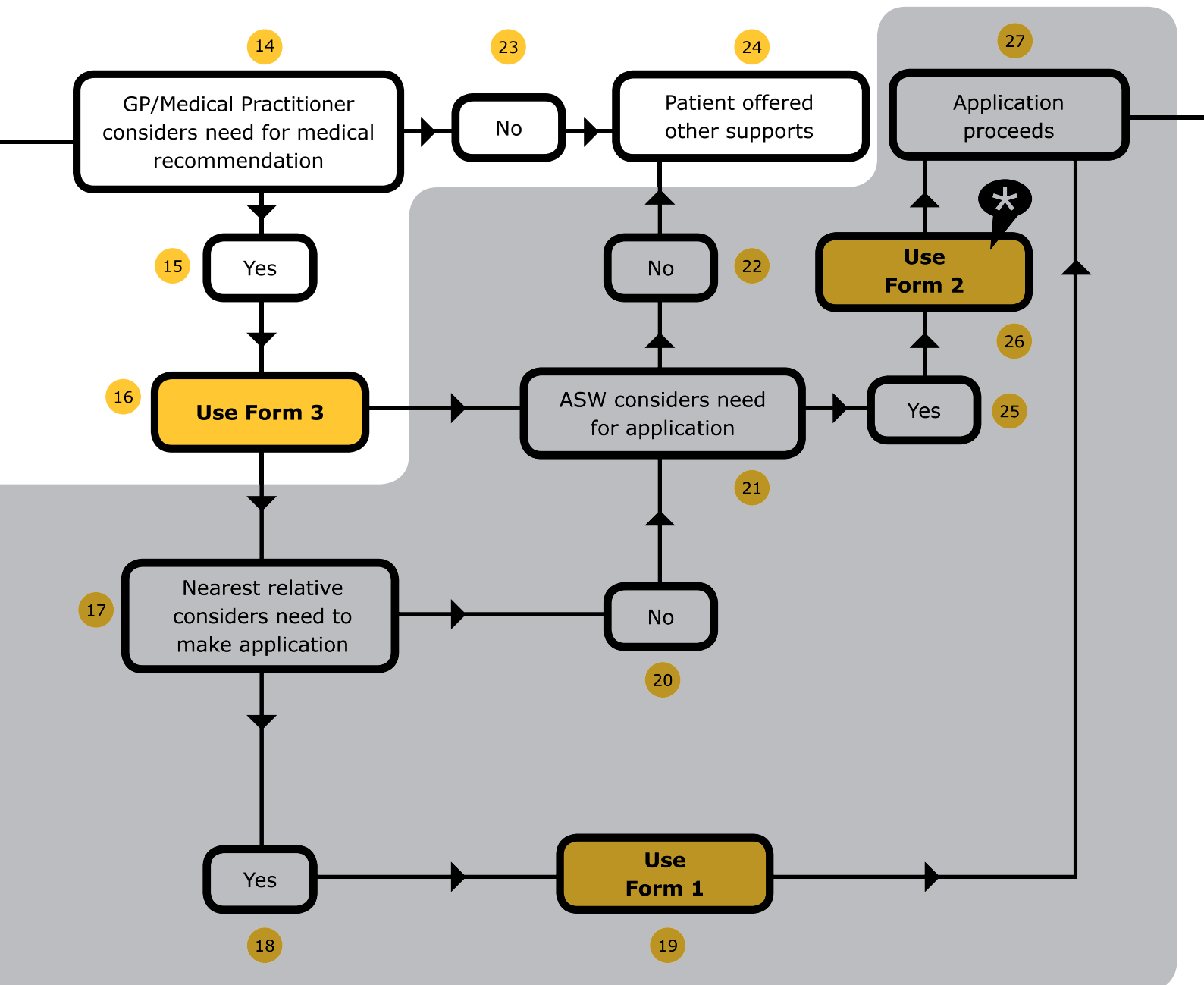
What if the person is not registered with a GP?

In this circumstance the assistance of a medical practitioner should be sought through local emergency primary care arrangements.

- 13 The doctor ensures that a request is made as a matter of urgency to the patient's GP for attendance at the hospital to consider the making a medical recommendation for the patient's detention in hospital for assessment. It may be advisable, at this stage, to advise the patient's next of kin or nearest relative (if known) and the duty ASW of the situation. **LINK TO ASW Contacts List**



APPLICATION - Medical Recommendation



APPLICATION

Medical Recommendation:

- 14 The GP/medical practitioner must interview the patient **as soon as possible within the 48 hour period** and consider whether or not a medical recommendation should be made. **LINK TO ROLE OF GP/MEDICAL PRACTITIONER**

What are the criteria for admission for assessment?

Article 4 (2) states that an application for assessment may be made in respect of a patient on the grounds that –

- a) He is suffering from mental disorder of a nature or degree which warrants his detention in a hospital for assessment (or for assessment followed by medical treatment); and
- b) Failure to so detain him would create a substantial likelihood of serious physical harm to himself or to other persons.

The GP/medical practitioner should consider the evidence that can be used in determining that there is a substantial likelihood of serious physical harm to the person or others as set out in **Article 2 (4)** and **paragraphs 23 and 24 of the Guide**.

The GP/medical practitioner should consider alternatives to detention for assessment, including the support of the local mental health home treatment team or other community health and social care services as he will be required to state in the Medical Recommendation **Form 3** that ***“reasonable provision for his safety is not available in the community”***.

In most situations, and if the nearest relative has declined to make the application or hospital staff have been unable to contact or identify the nearest relative, a request for the duty ASW to attend will be made at the same time as that made to the GP/medical practitioner. This allows for a

joint assessment and/or consultation in relation to the need to make an application for detention for assessment.

The GP/medical practitioner and ASW should consider whether a separate or joint interview with the patient should be conducted. This should take account of the patient's wishes and any other concerns in the assessment situation.

The Code, 2.5 states that "it is good practice for the professionals involved in the application for admission to be present at the same time although it may be advantageous for each to interview the patient separately".

What other factors need to be considered when interviewing the patient?

In addition to ensuring that the interview takes account of the Principles contained in the **Code of Practice 1.8** the following good practice guidelines should be considered.

- If the person who is being assessed does not speak English as a first or competently as a second language, the professionals must seek assistance from an interpreter through arrangements set out by the Regional Interpreting Service. All health and social care professionals/ staff have a legal duty to provide an interpreter in these circumstances under the Northern Ireland Act 1998, Race Relations (Northern Ireland) Order 1997 and Human Rights Act 1998. This duty will also apply in relation to the communication needs of the nearest relative.
- A professional interpreter can be accessed 24 hours a day, 7 days of the week through the Northern Ireland Health and Social Services Regional Interpreting Service, **Telephone 028 9056 3794**. The ir Code of Practice contains additional guidance including how to contact an interpreter in an emergency situation. **LINK TO Code of Practice and Guidelines on Booking Interpreters for HSC Staff and Practitioners**

What if the patient has other communication difficulties?

If the patient has difficulty either in hearing or speaking, the assistance of interpreters or staff with specialist skills should be sought.

Friends, relatives or other persons **should not** be used as interpreters unless in for very routine administration tasks such as setting up an appointment.

What additional factors need to be considered?

Where the patient is still unable or unwilling to communicate adequately (despite assistance from interpreters) the decision to proceed will have to be based on whatever information can be obtained from other sources.

The patient should not be interviewed when under the effects of sedative medication, short-term effects of drugs or alcohol unless it is not possible to delay because of the patient's disturbed behaviour and the urgency of the patient's needs. If these particular concerns exist the interview should be postponed.

The patient should be interviewed in private except if there is a risk of physical violence. In this event the medical practitioner and ASW or nearest relative can insist on another person being present.

If the patient would like another person present during the interview and any subsequent action, the professionals involved should assist in securing the person's attendance unless the urgency of the case or some other proper reason makes it inappropriate to do so. **Code 2.6**



- 15 The GP/medical practitioner concludes that the medical recommendation should be made.
- 16 If satisfied that the person meets the criteria for detention in hospital for assessment the medical recommendation should be made to the relevant authority* using the prescribed form (**Form 3**) and should include;
- (a) a statement that, in the opinion of the recommending doctor, the grounds set out in **Article 4 (2) (a)** and **(b)** apply;
 - (b) the grounds, including a clinical description of the mental condition, for his opinion that the detention is warranted; and
 - (c) the evidence for his opinion that failure to detain the patient would create a substantial likelihood of serious physical harm.

Code 2.22

The GP/medical practitioner must have examined the person no more than 2 days before the date the medical recommendation is signed.

The GP/medical practitioner should then recommend that an application under the Order be considered. **LINK TO FORM 3**

*** LINK TO List of Trust Headquarters Addresses**

Who can make the application?

The application can be made by –

- (a) The nearest relative of the patient **LINK TO ROLE OF NEAREST RELATIVE**; or
- (b) An approved social worker. **LINK TO ROLE OF ASW**.

Although in most situations it is the ASW who will make the application the nearest relative also has the right to do so.

Who can make the application? cont'd

If the nearest relative indicates that he wishes to exercise this right, the GP/medical practitioner should discuss the difficulties that this action might cause in the relationship with the person whose detention in hospital is being considered and the nearest relative should be advised that an ASW can be contacted and asked to consider making the application.

What must the Trust do if the nearest relative requests that an ASW make the application?

Article 40 states that It shall be the duty of a Board or authorised HSC Trust, if so required by the nearest relative of a patient residing in its area, to direct an ASW as soon as practicable to take a person's case into consideration with a view to making an application for that person to be admitted to hospital for assessment under the Order.

23

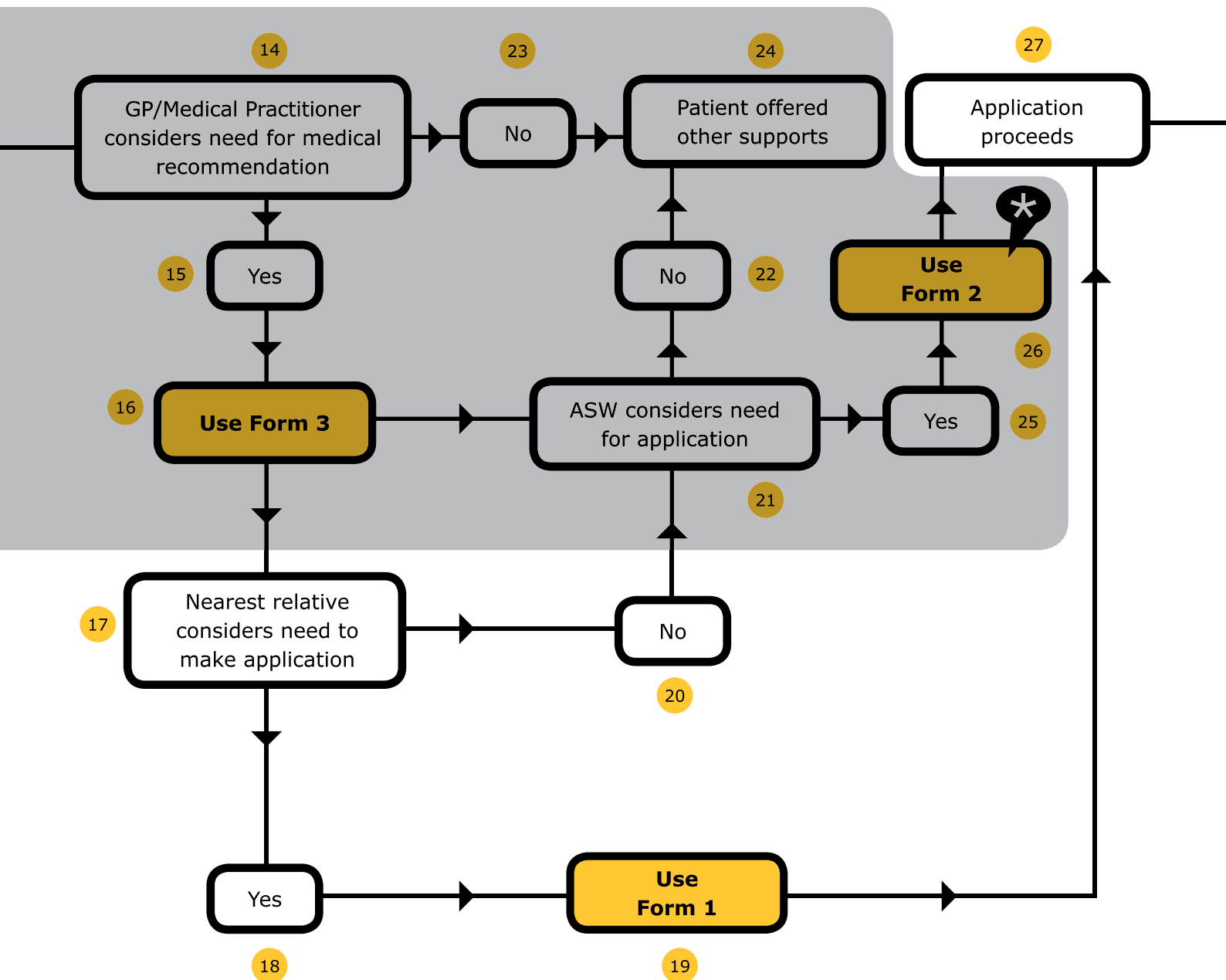
If the decision is made not to make the medical recommendation the doctor should, in consultation with others involved, discuss what alternative action can be taken including the supports that could be offered. If appropriate, efforts should be made to persuade the patient to stay in hospital voluntarily.

24

If the ASW and GP/medical practitioner agree that the criteria are not met or if the ASW considers that the application ought not be made, both professionals should consider, if possible in consultation with the individual, their family/carers and the hospital and community professionals, other supports/interventions that could be put in place to meet the patient's needs.



APPLICATION - Nearest Relative



APPLICATION

Nearest Relative:

- 17 The nearest relative should consider the criteria for application for detention. The patient's "nearest relative" is defined in **Article 32** and that person, if any, should be identified and advised of his right to make an application for the patient's detention in hospital for assessment. The nearest relative must be advised that he does **not** have to make the application and that an ASW can be asked to do so or can provide advice and assistance in the situation.

LINK TO ROLE OF NEAREST RELATIVE

What if the person has no nearest relative within the meaning of Article 32 of the Order?

In this event the approved social worker may proceed with the assessment and make an application if necessary.

- 18 If the nearest relative decides that the application should be made and that he wishes to exercise his legal right to do so the professionals involved should provide and guide the person through the completion of **Form 1**. The application must be made to the relevant authority. **LINK TO List of Trust Headquarters Addresses**

The nearest relative must have seen the patient within 2 days prior to the completion of his application.

The nearest relative should be offered assistance and advice from the GP/ medical practitioner and other professionals involved.

The GP/medical practitioner should advise that the advice and assistance of an ASW is available 24 hours each day.

- 19 The GP/medical practitioner who has made the medical recommendation should ensure that the nearest relative has or can access the Application form – **Form 1**, and should provide assistance in the completion of this. The nearest relative should again be advised that he can request assistance from an ASW.

27 **Application proceeds**

Once the Application has been made by the ASW or Nearest Relative the Application process can proceed.

The nurse in charge should check that the medical recommendation and application have been correctly completed and signed. The patient should then be examined immediately by a doctor on the staff of the hospital. This may be the RMO, another Part II doctor, or any other doctor on the staff of the hospital.

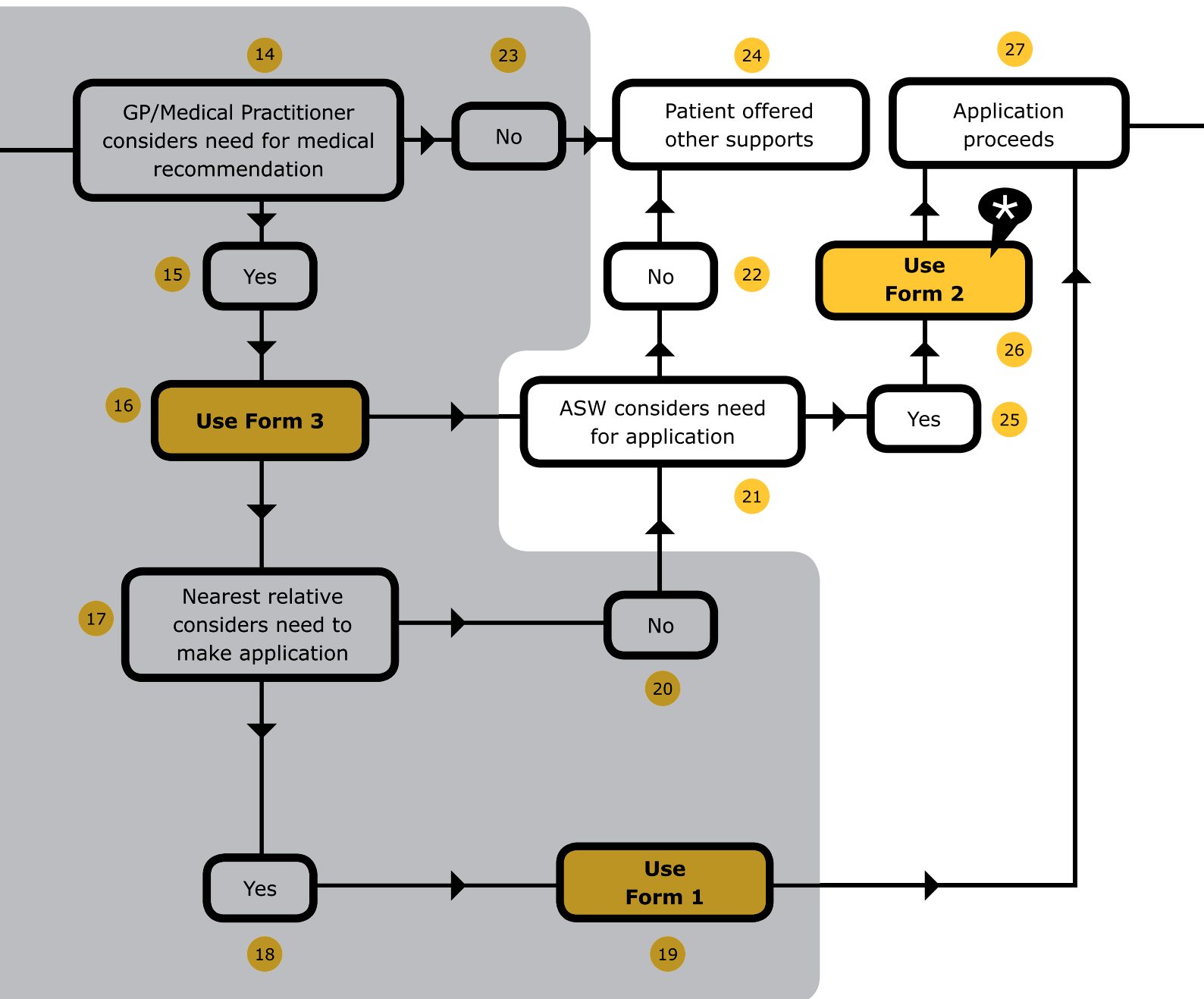
- 20 If the nearest relative declines to make the application or objects to the application being made the medical practitioner should contact and request the duty ASW attend with a view to making the application. The medical practitioner should advise the nearest relative of his rights, including the right to consultation with the ASW and a right to object should the ASW choose to proceed with the application.

[< BACK TO CONTENTS >](#)

APPLICATION - APPROVED SOCIAL WORKER:

[< BACK TO CONTENTS >](#)

APPLICATION - Approved Social Worker



APPLICATION

Approved Social Worker:

21

In most situations the GP/medical practitioner will have consulted with the ASW at an early stage and in most cases the ASW will act as the applicant, as the Code encourages. However if

- The nearest relative has chosen not to exercise his legal right to make the application and has requested that an ASW consider making the application or
- The nearest relative has refused and objects to an application being made for the person's compulsory admission to hospital for assessment

the GP/medical practitioner should contact the ASW and request that an application for the person to be admitted to hospital for assessment to be considered.

As stated previously it is good practice for both professionals involved in the assessment process to be present at the same time. The **Code 2.19** also states that the ASW should consult with the medical practitioner who is making or has made the medical recommendation and whenever possible other professionals who have been involved with the patient's care.

What statutory duties does the ASW have in this situation?

Article 40 of the Order places a duty on the ASW to make an application where he is satisfied that **an application ought to be made** and that it is **necessary or proper** for the application to be made by him. **LINK TO ROLE OF ASW**

The ASW is required to have seen the person whose detention is sought within the 2 days prior to making its application.

What statutory duties does the ASW have in this situation? cont'd

The **Code 2.14** states that:

To satisfy himself that it is necessary and proper to do so the ASW must interview the patient in person. The Guide and Code both provide general requirements and guidance in relation to how the interview should be conducted.

The ASW is required to identify the patient's nearest relative and ensure that his statutory duties to the nearest relative are fulfilled. These include consulting with the nearest relative prior to making the application or if this is not practicable as soon as possible following the patient's detention for assessment. If the nearest relative objects the ASW has a statutory duty to consult with a second ASW before proceeding. **LINK TO ROLE OF NEAREST RELATIVE**

In addition the Code states that the ASW should:

- Ascertain the nearest relative's views about the patient's needs and his (the relative's) own needs in relation to the patient and inform the nearest relative of the reasons for considering an application for admission under the Order and the effects of making an application;
- Take account of any wishes expressed by other relatives of the patient and any close friends or any other relevant circumstances when deciding whether or not to make the application;
- Consult with the doctor who made the medical recommendation and the hospital professionals and others who have been involved in the patient's care. **Code 2.16-2.19**

22

The ASW should not make the application if he is not satisfied that such an application is the most appropriate way of meeting the person's needs.

The Code 2.29 states that the ASW must advise and discuss the reasons for not making the application with the GP/medical practitioner who has completed **Form 3** and the nearest relative. The ASW should also advise the

nearest relative of his right to apply and suggest that he consults with the GP/medical practitioner if he wishes to consider this alternative.

The ASW is required under **Article 40 (4)** to provide the nearest relative with a written statement of the reasons for not applying for the patient's admission if the ASW has been acting on the request of the nearest relative. This statement should contain sufficient details to enable the nearest relative to understand the decision whilst at the same time preserving the patient's right to confidentiality.

- 24 If the ASW and GP/medical practitioner agree that the criteria are not met or if the ASW considers that the application ought not be made, both professionals should consider, if possible in consultation with the individual, their family/carers and the hospital and community professionals, other supports/interventions that could be put in place to meet the person's needs.

The Code 2.28 advises that any alternative plan should identify a named professional who will have responsibility for ensuring its implementation. It should be recorded in writing and copies made available to all those who need them, subject to the needs of confidentiality.

If appropriate, efforts should be made to persuade the patient to stay in hospital voluntarily.

- 25 The ASW considers that the application should be made.
- 26 If the ASW is satisfied that there are no alternatives to compulsory admission to hospital and that an application ought to be made the ASW should advise the patient, the recommending medical practitioner and the person's nearest relative as soon as possible of this decision.

The ASW must make all efforts to consult with the nearest relative and should delay making the application to allow for this statutory duty to be exercised. However the application **must** be made before the expiry of the **Form 5 holding power period, 48 hours**.

The ASW must consider if it is not reasonably practicable to contact the nearest relative before the holding period expires. The ASW should consider the urgency of the patient's situation. The patient may need to be sedated as a matter of urgency if there is a substantial likelihood of serious physical harm to himself or others or to prevent a deterioration in his mental state or the patient's behaviour may be so disturbed that he may need to be transferred to a more secure environment in another hospital. In this situation the ASW may proceed with the application without consultation with the nearest relative. **Article 5 (3)**

If the nearest relative informs the ASW that he objects, the ASW **must** consult with a second ASW before proceeding with the application. **Article 5 (4)**. The ASW should must advise the nearest relative of the outcome of this consultation and provide information regarding any additional nearest relative rights under the Order.

If the ASW considers that detention in hospital is the most appropriate way of meeting the person's needs and that no alternative is available in the community he must complete **Form 2**. **LINK TO FORM 2** The application must be made to the relevant authority. **LINK TO List of Trust Headquarters Addresses**

If it is not practicable for the ASW to consult with the nearest relative prior to making the application the ASW must make all efforts, if reasonably practicable, to advise the nearest relative as soon as possible following this action.

If **Form 3** was not completed by the person's own GP or a medical practitioner with previous acquaintance with the person, the ASW must record the reasons why on **Form 2**.

Has the ASW "a duty" to make the application?

Yes. **Article 40** states that the ASW has a duty to "make an application for assessment in respect of a patient within the area of the Trust by which that officer is appointed in any case where –

- (a) He is satisfied that an application ought to be made; and
- (b) He is of the opinion, having regards to any wishes expressed by relatives of the patient or any other relevant circumstances, that it is necessary or proper for the application to be made by him"

When should the person whose detention is being sought and the nearest relative be advised of their rights?

The patient and his nearest relative must be advised of the process of assessment and if necessary application for admission for assessment, including their rights, at all times during the assessment process **LINK TO Patient Information Leaflet** and **LINK TO Nearest Relative Information Leaflet** (Example Belfast Health and Social Care Trust leaflet)

Can the person refuse to stay in hospital?

No. Once the application is made the person is in the legal custody of the applicant, or person delegated by him. The person has a right to appeal to the Mental Health Review Tribunal against his detention in hospital once he is formally admitted.



Application proceeds

Once the Application has been made by the ASW or Nearest Relative the Application process can proceed.

The nurse in charge should check that the medical recommendation and application have been correctly completed and signed. The patient should then be examined immediately by a doctor on the staff of the hospital. This may be the Responsible Medical Officer (RMO), another Part II doctor, or any other doctor on the staff of the hospital.

What should happen to these Forms?

The Medical Recommendation, **Form 3** and Application forms, **Form 1 or 2**, and any other forms, for example **Form 4**, that have been used in the assessment for admission to hospital process are, and should be treated, as legal documents. These and any reports that follow should be forwarded through arrangements in the receiving Health and Social Care Trust to RQIA. Minor errors may be amended under **Article 11** of the Order during the period of 14 days beginning with the date of admission prior to this.

Medical recommendations or reports which do not provide sufficient evidence to warrant detention in hospital for assessment may be disregarded and replaced during this period. However, more serious errors cannot be rectified and may invalidate the entire detention process. These include failure to complete detention forms or reports within the timescales set out in the Order or failure to comply with statutory requirements i.e. failure to interview the patient. **LINK TO Appendix Scrutiny and Rectification of Documents**

COMPULSORY ADMISSION AND DETENTION IN HOSPITAL FOR ASSESSMENT

The purpose of the 14 day period of detention in hospital for assessment is to facilitate a comprehensive multi-disciplinary assessment of the person/patient and a decision as to the need for further detention in hospital for treatment.

Provision of Reports

The Approved Social Worker, if involved in the detention process, will prepare and submit a report outlining the circumstances of his assessment and subsequent decision to make application for the person's detention in hospital for assessment **See ASW Report Pro-forma and Guidance (MHO B) Appendix Section.**

This report will also contribute to the Comprehensive Risk Assessment if indicated.
LINK TO 'Promoting Quality Care – Good Practice Guidance on the Assessment and Management of Risk in Mental Health and Learning Disability Services – May 2010

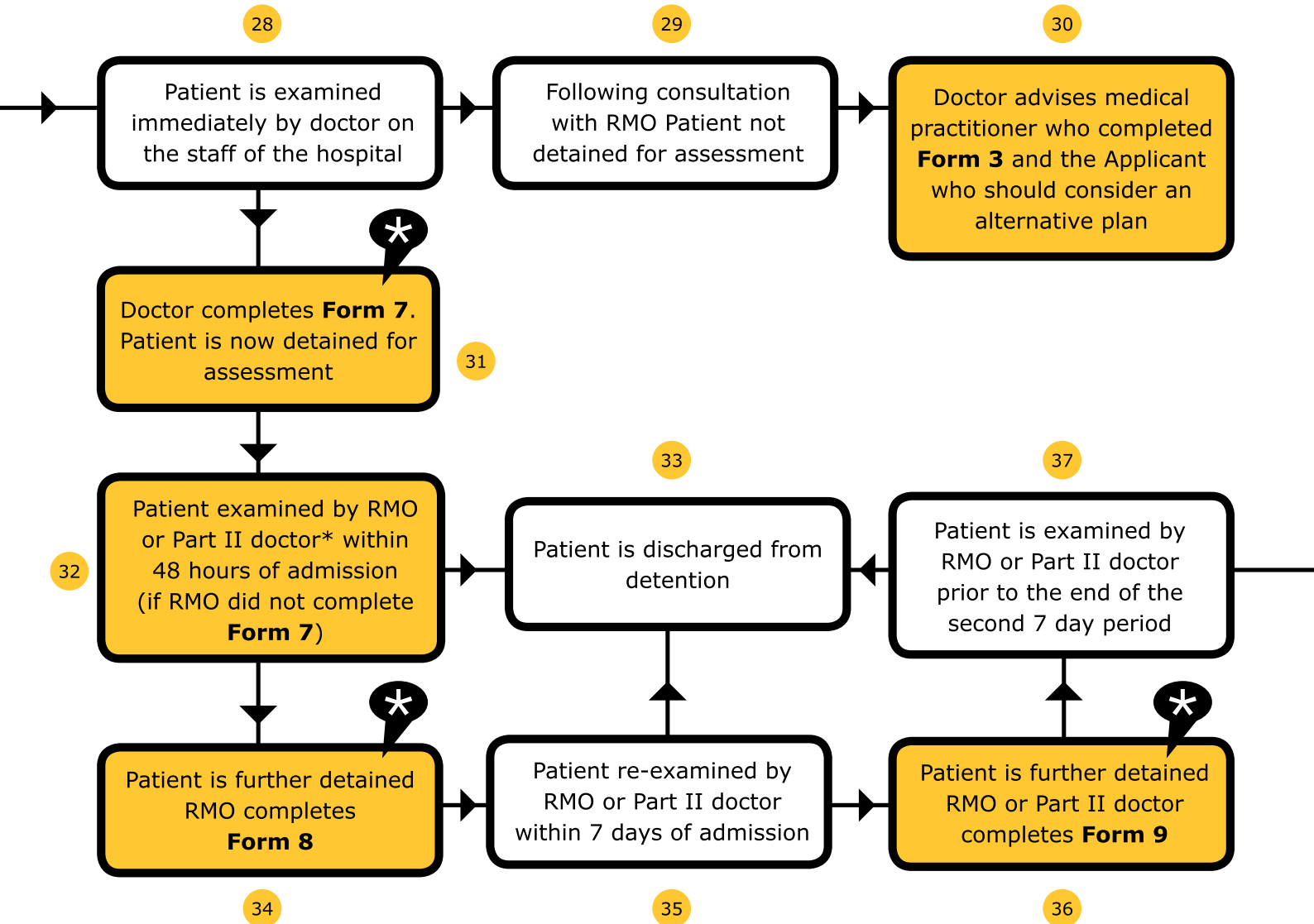
If the nearest relative completed the application for admission (Form 1) the responsible Health and Social Care Trust is required under Article 5(6) to direct a social worker to interview the patient and provide the RMO with a report on the patient's social circumstances. This should also be considered as part of the assessment of the patient's needs. See Pro-forma for Social Circumstances Report and Guidance in Appendix Section.

The outcome of the assessment will be the development of a multi-disciplinary treatment and care plan to address the patient's needs.

The Patient and his nearest relative must be advised of their rights to appeal to the Mental Health Review Tribunal for a hearing, at all key stages of the assessment and detention for treatment process.



COMPULSORY ADMISSION AND DETENTION IN HOSPITAL FOR ASSESSMENT



Patient is advised of his Rights including the right to appeal to the Mental Health Review Tribunal

COMPULSORY ADMISSION AND DETENTION IN HOSPITAL FOR ASSESSMENT

- 28 A doctor on the staff of the hospital should examine the person immediately. It is important that the examination is carried out as a matter of urgency. Until the person has been formally admitted under **Article 9** he can only be prevented from leaving the hospital by the applicant or person delegated by the applicant on the basis of the powers to “take and convey” conferred on the applicant under **Article 8** of the Order. **The doctor should consider information contained in the preliminary ASW report. See ASW MHO A pro-forma in Appendix section.**
- 29 The doctor considering completing **Form 7** concludes that the application should not be accepted. This situation is less likely to occur given that the process of application has been initiated in the hospital. However if this does occur the Code states that a decision to reject the application on examination of the patient should not be taken lightly. Such a decision should only be taken on the judgement of a Part II doctor. If following this consultation the decision remains. **Form 7** should be completed accordingly. **LINK TO FORM 7** and **LINK TO ROLE OF PSYCHIATRIST**
- 30 If the person is deemed not to meet the criteria for compulsory admission for assessment the doctor should immediately advise the medical practitioner who has made the initial medical recommendation **Form 3**. In this event and if the patient insists on leaving hospital, the doctor who made the medical recommendation for admission should, with the other professionals concerned, decide what action is needed to meet the person’s needs, including the possible provision of other health and social care services, and decide how to implement that action.

31

If the person is considered to meet the criteria for admission for assessment, the admitting doctor must complete **Form 7** accordingly. This must include a clinical description of the patient's mental condition which justifies the detention. The doctor should advise the person of this decision. Nursing staff should provide this information in both verbal & written form and shall take account of any communication difficulties that might exist. This information may need to be relayed on a number of occasions to ensure that it is sufficiently understood. Advisory services may also provide support.

The person must also be advised of his rights including the right to appeal to a Mental Health Review Tribunal. **LINK TO FORM 7**

Are there any particular considerations that should be made in relation to a child or young person?

The process of assessment, recommendation and application, detention for assessment and treatment and discharge from detention are the same for each individual regardless of age.

However the Code states that it is always preferable for children and young people admitted to hospital to be accommodated with others of their own age group in children's wards or adolescent units, separate from adults.

The Department has issued guidance to Trusts on how best to meet the needs of children and young people who require in-patient assessment and if necessary treatment in relation to mental disorder in those exceptional circumstances where no appropriate children's placement is available.

LINK TO Under 18 Year Olds in Adult Mental Health Facilities (Letter) and LINK TO Under 18 Year Olds in Adult Learning Disability Facilities (Hsc (Mhdp) 01/2008

Are there any particular considerations that should be made in relation to a child or young person? (cont'd)

The Regional Health and Social Care Board has also directed (August 2010) that the admission of an under 18 year old to an adult mental health or learning disability facility be considered as an “untoward event”. Staff should follow Trust Guidance in relation to the process which should be followed when this occurs.

RQIA closely monitor and review the in-patient assessment, treatment and care of children and young people in psychiatric and learning disability facilities. **LINK TO RQIA Independent Review of Child and Adolescent Mental Health Services (CAMHS) in Northern Ireland. February 2011**

- 32 The patient must be examined by the Responsible Medical Officer (RMO) or Part II doctor, if neither was the admitting doctor, within 48 hours of admission. The RMO or Part II doctor should, following the examination, consider whether the patient should be further detained or discharged from detention. **LINK TO ROLE OF PSYCHIATRIST**
- 33 If the RMO or Part II doctor considers that the patient no longer meets the criteria for detention he must be discharged from that detention. The patient should be advised as soon as possible that he can leave hospital or, if appropriate, offered in-patient care as a voluntary patient.
- 34 If the RMO or Part II doctor considers that the patient should continue to be detained the **Form 8** should be completed. The patient and the nearest relative must be advised of this detention and of their rights including the right to appeal the detention to the Mental Health Review Tribunal. **LINK TO FORM 8**

- 35 The patient must be formally re-examined by the RMO or Part II doctor within 7 days of his detention to consider whether the criteria continue to be met.

Can the person receive treatment for his mental disorder during the 14 day assessment period?

Yes, if the person gives his consent to the treatment. The Code states that common law, as it relates to consent to treatment, applies to all patients whether voluntary or detained.

Consent is defined in the **Code 5.8** as “the voluntary and continuing permission of the patient for a particular form of treatment to be given, based on an adequate knowledge of its nature, purpose, and likely effects”.

Are there any exceptions to this?

Yes. In certain situations patients may be given medical treatment during the assessment period. **See Consent to Treatment Chapter.**

- 36 If the RMO or Part II doctor considers that the patient should continue to be detained then **Form 9** should be completed. The patient and his nearest relative should again be advised of their rights including the right to appeal the detention to the Mental Health Review Tribunal. **LINK TO FORM 9**

37

The patient must be formally re-examined by the RMO or Part II doctor prior to the end of the second 7-day period. The purpose of this examination is to consider whether or not it is necessary to detain the patient for a period of treatment, following the expiry of the 14-day period of assessment. The criteria for detention for treatment therefore need to be considered.

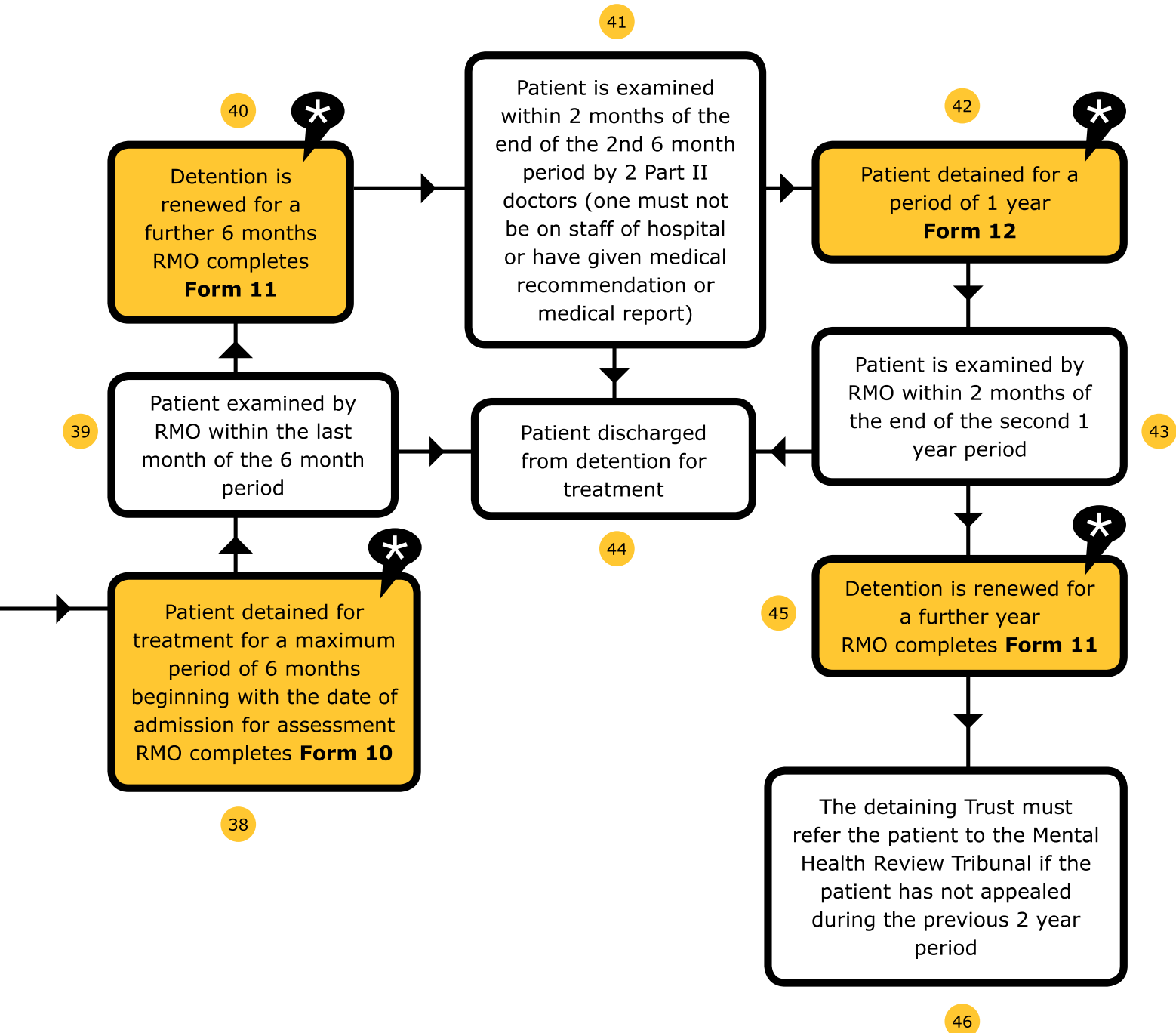
What are the criteria for detention in hospital for treatment?

The criteria for detention in hospital for treatment are set out in **Article 12** of the Order. A person can be detained for treatment if the examining doctor considers that the patient is:

- Suffering from mental illness or severe mental impairment* of a nature or degree which warrants detention in hospital for medical treatment and
- Failure to detain the patient would create a substantial likelihood of serious physical harm to the patient or to other persons.
- * Severe mental impairment is defined as a state of arrested or incomplete development of mind which includes severe impairment of intelligence and social functioning and is associated with abnormally aggressive or seriously irresponsible conduct on the part of the person concerned.



DETENTION FOR TREATMENT IN HOSPITAL



DETENTION FOR TREATMENT IN HOSPITAL

The purpose of detention for treatment in hospital is to allow for the implementation of the initial treatment and care plan agreed as part of the assessment in hospital process in circumstances where the patient meets the criteria for detention for treatment. SEE CONSENT TO TREATMENT CHAPTER

What is the definition of medical treatment in the Order?

Medical treatment is defined in **Article 2 (2)** of the Order as including “nursing and also includes care and training under medical supervision”. The Code states that this “acknowledges that modern psychiatric care is a team activity involving several disciplines, including psychiatry, clinical psychology, nursing, occupational therapy and social work”.

Since the publication of the Code peer advocates and carers also have a significant and valuable role to play in the overall care and treatment of patients in hospital and in the community.

All those involved in the treatment of patients should ensure that their practice is compatible with the Principles of Treatment contained in the Code of Practice.

- 38 If the RMO or another Part II doctor in the absence of the RMO considers that the patient should be detained for a period of treatment **Form 10** should be completed before the expiry of the 14-day assessment period. The doctor is required to give a clinical description of the patient’s condition and justify the need for detention. **LINK TO FORM 10**

The patient and nearest relative must be advised accordingly.

Form 10 should not be completed by the same doctor who gave the medical recommendation on which the original application was founded.



How and when is a patient informed of his rights?

A patient is informed of his rights at each stage of the detention process. The doctor, mental health social worker or nurse will speak to him and inform him of the possible duration of his detention and his right to appeal to the Mental Health Review Tribunal. He is also provided with written information to read. This is a stressful time for the person concerned and it may be difficult for him to remember all that is explained. Advocacy services may also provide support.

What should happen during the patient's detention in hospital?

While detained in hospital the patient's progress and care plan must be continually reviewed. The patient must be discharged from detention as soon as his condition improved and the criteria for detention are no longer met.

- 39 The patient must be examined by the RMO within a month of the end of the initial 6-month period of detention.
- 40 If the decision is made that the patient still meets the criteria for detention for treatment the RMO the patient and nearest relative should be advised accordingly. The RMO should complete **Form 11**. This allows the patient to be further detained for a further period of up to 6 months. **LINK TO FORM 11**
- 41 As the next detention period is for a further 12 months the Order makes provision for extra safeguards for the patient to ensure that the patient's interests are protected.

Two Part II doctors must examine the patient within the two months of the end of the second 6-month period of detention.

One of these doctors must not be on the staff of the hospital where the patient is being detained and must not previously have been involved in giving any medical recommendation or report on the patient. The other doctor is usually the RMO.

The patient and his nearest relative must be informed that these examinations are to take place, at least 14 days in advance.

- 42 If the decision is made that the patient still meets the criteria for detention for treatment the person and nearest relative should be advised accordingly. In this instance the **two** Part II doctors should jointly complete and sign **Form 12**. This allows the person to be detained for a period of up to 1 year. The patient and his nearest relative should again be advised of their rights including the right to appeal the detention to the Mental Health Review Tribunal. **LINK TO FORM 12**
- 43 The RMO must examine the patient within 2 months of the expiry of the first 1-year detention period (this will in fact be within 2 years of the total period beginning with the initial date of admission) to consider whether the patient still meets the criteria for detention for treatment.
- 44 If the patient does not meet the criteria for further detention for treatment the patient and his nearest relative should be advised accordingly. The patient should be discharged from detention and if appropriate, offered in-patient treatment as a voluntary patient.
- 45 If the decision is made that the patient still meets the criteria for detention for treatment the person and nearest relative should be advised accordingly. The RMO should again complete **Form 11**. This allows the patient to be detained for an addition period of up to 1 year if necessary. **LINK TO FORM 11**



The same process will follow at every yearly period thereafter i.e. examination by the RMO with 2 months of the expiry and completion of **Form 11** if necessary.

The patient and his nearest relative should again be advised of their rights including the right to appeal the detention to the Mental Health Review Tribunal.

46

Patients and nearest relatives have a right to appeal against their detention during both the detention for assessment and treatment periods. Further information regarding when and how this may be done is contained in the **Mental Health Review Tribunal** section of this Guidance.

The patient must be advised on a regular basis throughout the period of detention for assessment and for treatment of his right to apply to the Mental Health Review Tribunal (once within the first 6 months, once during the second 6 months and once during each subsequent 1 year period of detention) and a record kept of this. Staff advising him must ensure that repeated offers are made to explain this, especially when the patient's illness affects his understanding. Most mental health and learning disability services have advocates who will also do this informally.

The detaining Health and Social Care Trust also has a statutory responsibility to refer the case of a patient who has not appealed during the previous 2 year period.

May patients be granted leave from hospital during the period of detention for treatment?

Leave of absence may be given either for specified occasions or a specified period, often to help prepare the patient for discharge. **Article 15**

It should be considered part of the patient's treatment plan. Leave cannot be granted for more than 27 days at a time without informing the RQIA of the patient's address.

The Responsible Medical Officer is responsible for the care and treatment of the detained patient and must ensure that appropriate arrangements are in place for the patient's supervision whilst absent on leave.

The Responsible Medical Officer can impose any conditions on the leave he thinks necessary in the interests of the patient or for the protection of other people and may recall a patient before the end of the period for which he was originally granted leave, if he believes it to be in the interests of the patient or for the protection of other persons. If the patient refuses to return at the appointed time he may be taken into custody and returned to hospital. These processes are set out in **Article 29 and paragraphs 107 and 108 of the Guide**. In situations where the patient is in a private place and access is denied or prevented a Warrant can be sought to gain entry and remove the patient. **See Warrant Appendix**



What should happen if a detained patient leaves hospital without permission?

While a patient is subject to detention in hospital that patient is in the legal custody of the detaining Health and Social Care Trust. **Article 29** provides powers to return a patient who is absent without leave to the hospital where he is required to stay. He may be returned by any officer on the staff of the hospital, any police officer, an approved social worker or any person authorised in writing to do so by the Trust.

If necessary a warrant can be sought under **Article 129** of the Order to gain access to and remove the patient.

Any person who assists a patient to leave hospital or obstructs those involved in gaining access to or returning the patient to hospital may be considered to have committed an offence under the Order. **LINK TO OFFENCES SECTION.**

When must the patient be discharged?

The Responsible Medical Officer has a duty to discharge the patient from detention if he is satisfied that the criteria are no longer met.

This will follow consultation with the patient, the multidisciplinary team and the patient's family, including the nearest relative.

In this instance, 'discharge' means discharge from detention. It does not mean that a person must leave hospital.

Article 14 of the Order directs that "a patient who is for the time being liable to be detained under this Part shall cease to be so liable if an order in writing discharging him from detention is made in respect of him by the Responsible Medical Officer (RMO), the responsible authority or his nearest relative".

The RMO should complete **INTERNAL FORM 4** "Order of Discharge of Patient liable to be detained in Hospital by RMO".

The patient may also be discharged following an application by the nearest relative or, following a decision by the Mental Health Review Tribunal or in some circumstances by the Trust.

An order to discharge cannot be made before the nearest relative gives notice in writing to the detaining Health and Social Care Trust. **INTERNAL FORM 5**. If the RMO then provides a written report to the Trust within 72 hours of this order in which he objects to the discharge, such a discharge cannot proceed. **INTERNAL FORM 6**



How should risks be managed on discharge from detention in hospital?

Assessment and management of risk begins at first presentation of the person/patient and is an integral part of a person's mental health assessment, treatment and discharge. The same principles apply whether a person is detained under the Order or not. Particular factors must be considered at discharge and local protocols have been developed in all Health and Social Care Trusts.

The main guidance is **Promoting Quality Care – Good Practice Guidance on the Assessment and Management of Risk in Mental Health and Learning Disability Services May 2010** which can be found at **LINK TO Promoting Quality Care – Good Practice Guidance on the Assessment and Management of Risk in Mental Health and Learning Disability Services May 2010**

This includes:-

- Introduction and purpose
- Good practice principles
- Fundamentals of risk management
- Working with risk as part of everyday practice
- Learning from adverse incidents
- Improving the quality of risk management
- The way forward
- Risk assessment and management tools.

What should be done with all the Prescribed Forms/Reports used in the detention for assessment and treatment in hospital process?

All forms should be carefully completed. These are legal documents and should be treated as such. **Forms 7, 8, 9, 10, 11 and 12**, also referred to as "reports", must be furnished to and accepted by the detaining Health and Social Care Trusts.

All Forms must also be copied and immediately forwarded to RQIA. **LINK TO Appendix Scrutiny and Rectification of Documents**