

## MENTAL HEALTH ACT GUIDELINES ON RECEIPT AND SCRUTINY OF DETENTION PAPERS

### Document Summary

To ensure that Mental Health Act Admission documents are received and scrutinised correctly and those patients are detained lawfully, and in compliance with MHA Code of Practice in respect of the application of the Mental Health Act (1983)

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### Important Note:

**The Intranet version of this document is the only version that is maintained.**

Any printed copies should therefore be viewed as “uncontrolled” and, as such, may not necessarily contain the latest updates and amendments.

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## 1 SCOPE

The receipt and scrutiny of all documentation relating to the detention of patients under the Mental Health Act (1983)

## 2 INTRODUCTION

These procedural guidelines have been formed by the Mental Health Act 1983, Code of Practice 2015, and Reference Guide to the Mental Health Act 2015

The Trust must ensure that Mental Health Act admission documents are received and scrutinised correctly. This procedure is formally delegated to a limited number of officers within the Trust who have adequate knowledge of the relevant parts of the Act and can provide 24-hour cover (see MHA Delegation Protocol 2015). The following officers are authorised to receive documents on behalf of the hospital managers:

- Mental Health Act Administrators
- On Call Managers (Bronze & Silver)
- Network Managers & Officers
- Locality Managers & Team Leaders
- The nurse in charge of the ward
- Registered Mental Nurses (RMN)

## 3 STATEMENT OF INTENT

To provide guidance on the receipt and scrutiny of detention documents under the Mental Health Act (1983) and in compliance with the Code of Practice 2015. The Code of Practice provides statutory guidance to registered medical practitioners, approved clinicians, managers and staff of providers and approved mental health professionals on how they should proceed when undertaking duties under the MHA (83). However, everyone within the organisation has a role in ensuring that the MHA (83) and the Code are complied with. The Code applies to the care and treatment of all patients in England who are subject to the exercise of powers and the discharge of duties under the MHA (83). The Code requires all those undertaking functions under the MHA (83) understand the five sets of overarching principles which should always be considered when making decisions in relation to care, support or treatment provided under the Act. Those key principles are;

- Least restrictive option and maximising independence
- Empowerment and involvement
- Respect and dignity
- Purpose and effectiveness
- Efficiency and equity

All decisions must be lawful and informed by good professional practice. Lawfulness necessarily includes compliance with the Human Rights Act 1998 (HRA) and Equality Act 2010.

## 4 DEFINITIONS / ABBREVIATIONS

Nurses may not authorise the detention of patients who are not already receiving in-patient treatment for mental disorder in the hospital.

An inpatient is defined as one who has understood and accepted the offer of a bed, who has freely appeared on the ward, and who has co-operated in the admission procedure.

AC	Approved Clinician
AMHAHM	Associate Mental Health Act Hospital Manager
AMHP	Approved Mental Health Professional
AWOL	Absent Without Leave
CoP	Code of Practice
CrtP	Court of Protection
CTO	Community Treatment Order
LSSA	Local Social Services Authority
MDT	Multi-disciplinary team
MHA (83)	Mental Health Act 1983
MHAA	Mental Health Act Administrator
MHAHM	Mental Health Act Hospital Manager
MHLO	Mental Health Legislation Officer
MHLU	Mental Health Legislation Unit
MHT	Mental Health Tribunal
MoJ	Ministry of Justice
RC	Responsible Clinician
RMN	Registered Mental Nurse
RMNH	Registered Mental Handicap Nurse
SCT	Supervised Community Treatment

## 5 DUTIES

### 5.1 Mental Health Act Hospital Managers

The Mental Health Act (1983) requires the Trust's Mental Health Act Hospital Managers have in place policy, procedures and guidelines in respect of the receipt and scrutiny of detention documents.

### 5.2 Executive Director of Operations and Executive Nurse

The Director of Quality & Nursing is the accountable Director for this policy.

### 5.3 The Responsible Clinician and Unit/Ward Manager

The Responsible Clinician and Unit/Ward Manager have management responsibility for ensuring this policy is implemented.

## 6 DETAILS OF THE PROCEDURAL PROCESS

### 6.1 Overview

Authorised officers, usually nursing staff that have been trained in accepting section papers, will receive documents as soon as possible, using Form H3. The authorised officer and the Approved Mental Health Professional (AMHP) will

check the application and the Medical Recommendations for accuracy. The authorised officer will ensure that the documents do not contain any errors, which cannot be corrected at a later stage in the procedure (see section 15 of the MHA). The authorised officer will complete the following forms for attachment to the admission documents:

- Form H3— Record of Admission
- Administrative Scrutiny Form
- CTO4 upon receipt of CTO3 of a recalled patient
- Part 2 of H4 upon receipt of transferred patient

A temporary copy of all documents will be uploaded to the patient's health record by the authorised officer. The documents will be sent to the Mental Health Act Administrator as soon as possible, who will keep the originals in a central record and upload the final documents (once any necessary amendments have been made under Section 15) to the patient's health record.

## **6.2 Section 15 Compliance**

The Mental Health Act Administrator will ensure that the application for detention is appropriate, has no unrectifiable errors and is within the time limits. An Approved Clinician will undertake medical scrutiny (not the Psychiatrist making the medical recommendations) and will check that the medical recommendations show sufficient clinical grounds for detention. A Mental Health Act Administrator will also scrutinise all admission documents for accuracy, appropriateness and rectification of any errors as per Section 15 of the Act. In the absence of a Mental Health Act Administrator a Senior Manager (or approved delegate) will complete this task. The MHA Hospital Managers and Associate Managers will also routinely randomly scrutinise admission documents during their visits to the main inpatient sites i.e. Carleton Clinic, West Cumberland Hospital, Westmorland General Hospital and Furness General Hospital

## **6.3 GIVING OF INFORMATION TO PATIENTS AND THE NEAREST RELATIVES**

The authorised officer is required to ensure that the MHA Hospital Manager's statutory obligations concerning the giving of information to patients and the nearest relatives under Section 132 and 133 are implemented. This means that: -

- The person accepting section papers is also responsible for ensuring that patients are read their rights under the Mental Health Act 1983 and ensuring that they receive the relevant leaflet.
- If the patient is unable to understand their rights at that time, then this must be recorded on the appropriate form and in the notes. It is the responsibility of the ward managers or nominated deputy to follow up and check that process has been repeated until the patient does understand their rights.
- The Mental Health Act Administrator will ensure that a letter is sent to the nearest relative informing them of their relative's detention under the Mental Health Act unless an objection has been noted on the record of rights.

- Qualifying patients should also be informed of their right to an Independent Mental Health Act Advocate by the person accepting the detention papers. MHA Administrator will make such a referral to the IMHA Service automatically upon receipt of detention papers.

Those provided the required information will ensure a record of such is maintained on the patients' health record

## 7 TRAINING

Training required to fulfil this policy will be provided in accordance with the Trust's Training Needs Analysis. Management of training will be in accordance with the Trust's Learning and Development Policy

## 8 MONITORING COMPLIANCE WITH THIS DOCUMENT

The table below outlines the Trusts' monitoring arrangements for this policy/document. The Trust reserves the right to commission additional work or change the monitoring arrangements to meet organisational needs.

Aspect of compliance or effectiveness being monitored	Monitoring method	Individual responsible for the monitoring	Frequency of the monitoring activity	Group / committee which will receive the findings / monitoring report	Group / committee / individual responsible for ensuring that the actions are completed
Use does not exceed the maximum periods identified in the guidelines	Administrative Scrutiny	Mental Health Legislation Officer	Quarterly	MHA Hospital Managers & Associates	MHA Hospital Managers & Associates

## 9 REFERENCES/ BIBLIOGRAPHY

Human Rights Act 1998 c.42
Mental Health Act 1983 c.20
Department of Health, Code of Practice Mental Health Act 1983 (TSO 2015)
Reference Guide to the Mental Health Act 1983 (TSO 2015)
The Mental Health (Hospital, Guardianship and Treatment) (England) Regulations 2008 S.I. 1184

## 10 RELATED TRUST POLICY/PROCEDURES

- [POL/001/005/005](#) Informal Patients Leave Arrangements Guidelines
- [POL/001/005/003](#) Mental Health Act Guidelines on Section 5 (2) 72 Hour Holding Power
- [POL/001/005/015](#) Policy and Guidance on Section 132, 132A and 133 Patient's Rights
- [POL/001/005/006](#) Section 17 Leave of Absence MHA (1983) Guidelines
- [POL/001/071](#) Mental Health Act Delegation Protocol (Oct 17-Oct 19)

11 APPENDIX 1: FORM H3

See separate file here: <https://www.cumbriapartnership.nhs.uk/health-professionals/policy-documents/category/all>