

MENTAL HEALTH ACT PROCEDURE ON THE EXCLUSION OF VISITORS TO DETAINED PATIENTS

Document Summary

Guidance to ensure compliance with MHA Code of Practice in respect of the exclusion of visitors to patients detained under the Mental Health Act

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1 SCOPE

This policy details the roles and responsibilities of all staff when excluding visitors to a patient detained under the Mental Health Act (1983) in compliance with the Mental Health Act Code of Practice (2015)

2 INTRODUCTION

The Code of Practice¹ clearly states that all detained patients are entitled to maintain contact with and be visited by anyone they wish to see, subject only to some carefully limited exceptions. Maintaining contact with friends and relatives is recognised as an important element in a patient's treatment and rehabilitation. The decision to prohibit a visit by a person whom the patient has requested to visit or agreed to see should be regarded as a serious interference with the human rights of the patient and to be taken only in exceptional circumstances. This should only occur after other means to deal with the problem have been exhausted. Any decision to exclude a visitor should be fully documented and available for independent scrutiny by the Care Quality Commission.

Visits should be encouraged and pleasant surrounding with refreshments provided will assist with and contribute to patients' dignity and respect.

3 STATEMENT OF INTENT

Article 8 of the European Convention on Human Rights (ECHR) protects the right to a family life. In particular, every effort should be made to support parents to support their children. Patients should be able to see all their visitors in private, including in their own bedroom if the patient wishes.

To ensure compliance with the Mental Health Act (1983) and it's associated Code of Practice

4 EXEMPTED VISITORS

Certain groups and individuals have the right to visit detained patients and therefore may not be excluded or prevented from doing so. These include

- SOAD - Second Opinion Approved Doctors
- Independent Doctors providing examination on behalf of the MHT
- CQC Mental Health Act Reviewers
- IMHA - Independent Mental Health Act Advocates
- IMCA Independent Mental Capacity Advocates
- Patients Legal Representative (Solicitor)
- Mental Health Act Hospital Managers

¹ Mental Health Act Code of Practice 2015, chpt 11

All the above should be allowed to meet with the patient in private should the patient wish to do so. If there are concerns regarding security then following the appropriate assessment of risk the ward manager should make the necessary arrangements to mitigate the situation and agree appropriate security arrangements.

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 exclusion and or restriction of visitors to detained patients.

5.2 Executive Director of Nursing & Quality

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

5.3 The Unit/Ward Manager

The Unit/Ward Manager has management responsibility for ensuring this policy is implemented.

6 DETAILS OF THE PROCEDURAL REQUIREMENTS

6.1 GROUNDS FOR THE EXCLUSION OF VISITORS

There are only two principle grounds for the restriction or exclusion of visitors to a detained patient. These are

Clinical Grounds – The Responsible Clinician following a full, documented assessment of the situation and discussion with the multi-disciplinary care team conclude that the visit will be detrimental to the safety or well being of the patient, the visitor, other individuals (including staff) on the ward. Reasonable restriction rather than exclusion may be put in place in order to facilitate such visits if necessary.

Security Grounds – Individual visitors may be excluded if their past behaviour has been shown to be disruptive to the patient or ward environment. The Code of Practice lists the following examples

- incitement to abscond;
- smuggling of illicit drugs or alcohol into the hospital or unit;
- transfer of potential weapons;
- unacceptable aggression; and
- attempts by members of the media to gain unauthorised access.

6.2 PROCEDURE FOR RESTRICTION OR EXCLUSION

Any decision to restrict or exclude visitors to a detained patient should be based on a full risk assessment of the nature and degree of the risks posed and the length of time any such restriction or exclusion will be required for.

All such assessments and subsequent plans should be fully documented in the patient's clinical record by the Responsible Clinician

The reasons for the restriction or exclusion should be recorded and explained to the patient and the visitor, both orally and in writing (subject to the normal considerations of patient confidentiality). Wherever possible, 24-hour notice should be given of this decision.. Where possible and appropriate, the reason for the decision should be communicated to the person being excluded (subject to the normal considerations of patient confidentiality and any overriding security concerns).

The completion of the attached proforma should take place in the event of any restriction or exclusion. A copy of proforma and the letter informing the patient of restriction to be forwarded to Mental Health Act Administration for reporting to the MHA Hospital Managers and the CQC.

The original copy to be kept in the patient's case notes.

6.3 PATIENT'S RIGHTS

Restricting visitors to informal patients who lack capacity to decide whether to remain in hospital could amount to or contribute to a deprivation of liberty and may indicate that an authorisation under the deprivation of liberty safeguards of the Mental Capacity Act 2005 may need to be sought.

The decision to prohibit a visit by any person whom the patient has requested to visit or has agreed to see should be regarded as a serious interference with the rights of the patient. There may be circumstances when a visitor has to be excluded, but these instances should be exceptional and any decision should be taken only after other means to deal with the problem have been considered and (where appropriate) tried. Any such decision should be fully documented and include the reasons for the exclusion, and it should be made available for independent scrutiny by the Commission.

The patient should be informed both orally and in writing by their Responsible Clinician or any decision to restrict or exclude their visitors

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 |
|--|---------------------|---|--------------------------------------|---|--|
| Number of recorded incidents of exclusion or restriction | Exception Reporting | MHAA | Quarterly | MHAHM | MHAHM |

9 REFERENCES/ BIBLIOGRAPHY

Mental Health Act 1983 c20

Code of practice: Mental Health Act 1983, Department of Health 2015

Mental Health Act 1983: reference guide, Department of Health 2015

Mental Capacity Act 2005 c9

Mental Capacity Act Code of Practice, Department of Health 2016

Mental Health Act 2007 c12

Convention for the Protection of Human Rights and Fundamental Freedoms
(European Convention on Human Rights, as amended)

10 RELATED TRUST POLICY/PROCEDURES

[POL/001/005/014](#) Age Appropriate Admissions Policy

[POL/001/005/017](#) Children Visiting Detained Patients Guidance

[CCC](#) Guardianship Policy, Procedures and Guidance (Interim Joint Cumbria
[Guardianship](#) County Council Policy)

[POL/001/005/004](#) Guidelines on Section 5 (4) Nurses Six Hour Holding Power

[POL/001/005/005](#) Informal Patients Leave Arrangements Guidelines

- [POL/001/005/016](#) Management of Mental Health and Learning Disabilities Patients Policy
- [POL/001/005/012](#) Mental Act Guideline on the Exclusion of Visitors to Detained Patients
- [POL/001/005/009](#) Mental Health Act Guidelines for the Exercise of Powers to Withhold Outgoing Mail
- [POL/001/005/007](#) Mental Health Act Guidelines on Receipt and Scrutiny of Section Papers
- [POL/001/005/003](#) Mental Health Act Guidelines on Section 5 (2) 72 Hour Holding Power (2013)
- [POL/001/005/011](#) MHA Section 117 Aftercare Policy
- [POL/001/005/006](#) Section 17 Leave of Absence MHA (1983) Guidelines
- [POL/001/005/010](#) Use of Supervised Community Treatment MHA Section 17(a)

11 ABBREVIATIONS

| | |
|----------|--|
| 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 |

APPENDIX ONE: FORM EXCLUSION OF VISITORS

EXCLUSION OF VISITORS TO DETAINED PATIENTS

Date: _____ Time: _____

Name of Patient: _____ NLH _____

Name(s) of person(s) being excluded: _____

Reason for restricting visitor(s) to a detained patient:

 Signed

| | |
|---|--|
| Responsible Clinician | |
| Unit Manager | |
| Key Worker/Nurse | |
| Other Professional | |
| | |
| Date Patient informed orally | |
| Date Patient informed in writing | |
| | |
| Date Restricted Visitor informed | |

Copy of this form to MHA Administration