

The Newcastle upon Tyne Hospitals NHS Foundation Trust

Patients Detained under the Mental Health Act 1983

Effective: July 2008

Review: November 2011

1. Summary

- 1.1 The following information details the process to follow, when a patient admitted to, or already a patient in, the Trust, is detained under the Mental Health Act 1983. Key individuals involved with this procedure are the clinical staff responsible for the patient's care and the Patient Services Co-ordinators, Directorate Manager and Mental Health Act Senior Supervisor (St Nicholas Hospital Switchboard 820).

2. Introduction

- 2.1 It is important to follow correct procedures when a patient is detained in the Trust under the provisions of the Mental Health Act 1983. This will ensure the rights of the individual are recognised, and that any potential for action against the Trust for unlawful detention or treatment is minimised. The Trust has a Service Level Agreement with Northumberland Tyne and Wear Mental Health Trust to take responsibility for providing administration advice and information regarding the management of the patient in relation to the law. The Mental Health Act Department of Northumberland, Tyne and Wear Mental Health Trust discharge this function.

3. Mental Health Act 1983 and Consent to Treatment

- 3.1 Any individual with capacity has the right to refuse treatment for whatever reason, whether religious, cultural or personal. Refusal to comply with such patient wishes may constitute assault. There are exceptions to this basic principle, particularly relating to patients with mental disorder.
- 3.2 Not all detention sections of the Mental Health Act 1983 allow compulsory treatment for mental disorder. Clear advice must be sought from the psychiatrist involved in the patient's care or the Mental Health Act Department at St Nicholas' Hospital. The compulsory treatment of physical conditions using the Act can only take place in very specific situations where the condition is linked to the mental disorder. If treatment for a physical condition needs to be given against the patient's wishes then the common law test of necessity and capacity should be applied. The courts remain the appropriate place for decisions relating to compulsory treatment for physical conditions of patients with capacity.
- 3.3 The Mental Health Act 1983 places considerable onus on the Managers of the detaining Trust to provide information and assistance to patients in relation to their detention and rights. Good practice in this area is guided by the Code of Practice to the 1983 Act (DOH1999).
- 3.4 Rights of appeal exist to an independent tribunal and also directly to the Managers of the detaining Trust.

4. The Process

The Mental Health Act (1983) contains legislation that allows the compulsory admission, detention and treatment of those suffering from mental disorder; it also includes mechanisms to safeguard the rights of patients. The process is laid down in law and must be complied with to ensure that actions are lawful. This will comply with good practice and avoid the risk of litigation for false imprisonment or assault that could arise from failure to correctly apply the law. (Appendix (i) – Details of Reporting Process).

Within the Trust a number of Mental Health Act Resource Packs are available, which guide staff through the process, and ensure the availability of the necessary legal documents. These are held in the following locations:

Royal Victoria Infirmary

Patient Services Co-coordinators Office, Peacock Hall
Poisons and Information Office, Ward 43, Leazes Wing
Accident and Emergency Department

Freeman Hospital

Patient Services Co-ordinators Office, Level 2
Emergency Admissions Unit, Level 2

These resource packs must be referred to whenever a patient of The Newcastle upon Tyne Hospitals NHS Foundation Trust is being detained in accordance with the Mental Health Act (1983), and can be accessed by contacting the Patient Services Co-ordinator for the relevant site. The senior patient services co-ordinator is responsible for ensuring that these resources are kept up to date.

5. Roles and Responsibilities

5.1. Nurses in Charge

The nurse in charge of the ward / department **must** be aware of the need for a formal process to be followed when a patient, in their area, is to be detained under the Mental Health Act (1983) or on occasions when a patient already detained, is admitted to the area.

The Nurse in Charge of the ward must consider the issues that are involved in detaining a patient under the Mental Health Act. In the event that a patient is detained under the Mental Health Act 1983, the Patient Services Co-ordinator must be informed.

The Nurse in Charge is responsible for ensuring that the patient's Consultant and the Directorate Management Team and the Patient Services Co-ordinator are informed.

5.2 Patient Services Co-ordinator

- Will oversee the correct application of the process to ensure that the Patient is lawfully detained and that any appeals by the detained patient are dealt with promptly and in accordance with the guidance. He/she will as the representative of the Trust ensure that the Consent to Treatment safeguards in the Act (part iv)

are observed. Regular training will be provided by the Mental Health Act Department to support them with these responsibilities.

- Will ensure that the Patient Relations Department are advised that a patient has been detained under a section of the mental Health Act (1983).

5.3 Patient Relations Department will maintain a database of such cases and will report them to the Director of Nursing & Patient Services on a regular basis.

5.4 Mental Health Act Department St. Nicholas Hospital

The Mental Health Act Department is responsible for:

- The correct reception, processing and monitoring of the documentation. in accordance with the Mental Health Act 1983 and Code of Practice.
- Is able to provide advice and information, regarding the management of the patient in relation to the law.
- Co-ordinating the process, when a detained patient appeals to the Mental Health Act Review Tribunal. To collect and collate necessary reports.
- Providing guidance to the Non-Executive Directors in the discharge of their duties under law.
- Providing educational training and awareness sessions for relevant staff.
- Providing resource packs for the Patient Services Co-ordinators
- Ensuring the relevant clinical team is kept fully apprised of any changes to the status of patients detained under a section of Mental Health Act (1983)

6. Treatment of Detained Patients for Physical Disorder

6.1 The Mental Health Act 1983 only covers treatment for mental disorder. Detained patients who require treatment for physical conditions must give their consent, in accordance with the Mental Capacity Act and the need for informed consent to treatment.

7. Reporting and Record Keeping

7.1 The following table summarises the responsibilities for reporting and recording

Action	Responsibility
<p>Evidence of written documentation of the detention of a patient will be required in the Medical and Nursing Notes.</p> <p>Circumstances leading to detention under the Mental Health Act 1983 and which part and section of the Mental Health Act 1983.</p>	<p>Medical Staff to ensure this information is recorded in Clinical Records</p> <p>Nursing staff to ensure this information is recorded in the patient's care plan.</p>
<p>Ensuring that the relevant documentation is correctly forwarded to the Mental Health Act Office, and that photocopies have been retained in the patient's clinical records. (NB the internal mail should not be used. These documents must be transported by Taxi / Courier)</p>	<p>Nurse in Charge of the Ward / Department</p>
<p>Co-ordinating the process, when a detained patient appeals to the Mental Health Act Review Tribunal. To collect and collate necessary reports.</p>	<p>Mental Health Act Office</p>
<p>Providing guidance to the Non-Executive Directors in the discharge of their duties under law.</p>	<p>Mental Health Act Office</p>
<p>Providing educational training and awareness sessions for all staff.</p>	<p>Newcastle upon Tyne Hospitals NHS Foundation Trust in collaboration with Northumberland, Tyne and Wear NHS Trust.</p>
<p>Providing resource packs for the Patient Services Co-ordinators</p>	<p>Mental Health Act Office</p>
<p>Ensure the relevant Clinical Team is kept fully apprised of any changes to the status of patients detained under a section of Mental Health Act (1983)</p>	<p>Mental Health Act Office</p>
<p>The Mental Health Act Commission will be sent information regarding the death of any in-patient occurring whilst they are detained under the provision of the Mental Health Act 1983.</p>	<p>Mental Health Act Office</p>
<p>The Mental Health Act Department will submit Korner statistical returns annually detailing any use of the Mental Health Act 1983 within the Newcastle upon Tyne Hospitals NHS Foundation Trust.</p>	<p>Mental Health Act Office</p>

8. Audit and Monitoring

The records held by the Patient Services Co-ordinator will be reviewed on an annual basis and the process reviewed to ensure appropriate record keeping and notification of all cases. This will be undertaken by the Senior Patient Services Co-ordinator and the Deputy Director of Nursing and Patient Services.

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