The Newcastle upon Tyne Hospitals NHS Foundation Trust

Patients Detained under the Mental Health Act 1983

<table>
<thead>
<tr>
<th>Version No:</th>
<th>4.0</th>
</tr>
</thead>
<tbody>
<tr>
<td>Effective from:</td>
<td>16 March 2018</td>
</tr>
<tr>
<td>Expiry date:</td>
<td>16 March 2021</td>
</tr>
<tr>
<td>Date ratified:</td>
<td>06 March 2018</td>
</tr>
<tr>
<td>Ratified by</td>
<td>Clinical Policy Group</td>
</tr>
</tbody>
</table>

1. Introduction

The Mental Health Act 1983 (which was substantially amended in 2007) is an Act of the Parliament of the United Kingdom which applies to people in England and Wales. It covers the reception, care and treatment of mentally disordered persons, the management of their property and other related matters. In particular, it provides the legislation by which people diagnosed with a mental disorder can be detained in hospital or police custody and have their disorder assessed or treated against their wishes, unofficially known as "sectioning". Its use is reviewed and regulated by the Care Quality Commission.

The process of detention 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.

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 (MHA). It is a legal requirement to follow correct procedures when a patient is detained in the Trust under the provisions of the MHA as 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.

2. Scope

The policy applies to any patient over 18 who are judged in need of detention by the Trust under the terms of the MHA.

If a patient is detained by an application made by the Newcastle Hospitals, the Trust retains responsibility for the detention until the section is removed from the patient or they are transferred to another Trust. If a patient is transferred into the acute trust from a mental health unit and is already detained, the responsibility for the detention remains with the mental health trust until form H4 is fully completed. Part 1 of form H4 must be completed by the transferring Trust and part 2 of form H4 completed by Newcastle Hospital staff. Upon completion of part 2 of form H4 the responsibility for the detention then transfers to Newcastle Hospitals.

If a patient who is detained under the MHA by another Trust attends Newcastle Hospitals as a patient “on leave” (section 17 MHA) then the responsibility for detention remains with the other Trust.
The Act applies also to people under 18 but there are additional legal provisions which must be considered and further advice can be obtained from the Paediatric Safeguarding Team).

3. **Aim of policy**

This policy aims to ensure that all parties involved in the detention of a person under the terms of the MHA are aware of the correct process to be followed and the responsibilities of all involved.

Decisions under the Act must be taken with a view to minimising the undesirable effects of mental disorder, by maximising the safety and wellbeing (mental and physical) of patients, promoting their recovery and protecting other people from harm. (DoH 2008)

The Trust has a Service Level Agreement with Northumberland Tyne and Wear Mental Health Trust (NTW) who 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 NTW discharges this function as outlined in the policy.

4. **Duties (Roles and responsibilities)**

4.1 **Trust Board and Chief Executive**

Have overall responsibility for the compliance with the requirements of the MHA with delegated responsibility to the Medical Director. Responsibilities include ensuring that the authority for detaining patients is valid, that all relevant admission documents are in order and the establishment of a panel to review detentions where applicable.

4.2 **Executive Director**

The Medical Director is the designated Executive Director who ensures that there are policies and processes in place to comply with the statutory requirements of the MHA including the allocation of a Responsible Clinician (see definition below) to each patient detained.

4.3 **Directorate Management Team**

In the first instance the Matron should be informed by the ward sister/charge nurse when a patient in their area is to be detained to ensure that all statutory processes and obligations are fulfilled.

4.4 **Ward Sisters/Charge Nurses**

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 MHA 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 MHA. In the event that a patient is detained under the MHA, the Patient Services Co-ordinator (PSC) must be informed by telephone so that they are aware and can advise. The Nurse in Charge is also responsible for ensuring that the patient’s Consultant and the Directorate Management Team via the Matron are informed.

4.5 **Patient Service Co-ordinators**

- Must be informed of any patient detained under the MHA or application to do so.
- Will oversee the correct application of the process as outlined at Appendix 1 and 2 to ensure that the Patient is lawfully detained.
- Will ensure that the relevant Medical Director is advised that a patient has been detained under a section of the MHA.
- Ensure that NTW’s Mental Health Legislation Nurse Practitioner is informed (a message should be left out of hours) who will check and safely transport the original section papers to the MHA Office.
- Will inform the Nurse Specialist - Patient Safety of any patient detained under MHA section using the Notification form at Appendix 3 and also if any patient detained dies or is Absent Without Leave (AWOL).

4.6 **Psychiatric Liaison team**

The Psychiatric Liaison team is employed by NTW and is responsible for providing psychiatric expertise and liaison as required. The Psychiatric Liaison team will also ensure that each patient detained has a Responsible Clinician (when required) identified in conjunction with the Trust’s Medical Director.

4.7 **Mental Health Act Office-St. Nicholas Hospital, NTW**

The Mental Health Act Office is responsible for:

- The correct reception, processing and monitoring of the documentation in accordance with the MHA and associated Code of Practice (2015) as outlined in Appendices 4 and 5.
- Providing 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 MHA 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 information resources for the PSC’s.
- Ensuring the relevant clinical team is kept fully appraised of any changes to the status of patients detained under a section of MHA.

4.8 **Nurse Specialist- Patient Safety**

- Will be informed by email from the PSC of any patient detained under the MHA or application to do so.
Will be informed by email from the PSC of the death or Absence Without Leave of any patient detained under the MHA.

Will ensure that CQC registration requirements in relation to mental health are maintained.

Will maintain a central register of all patients detained by the Trust under the MHA on behalf of the Director of Quality and Effectiveness.

Will notify the CQC of the death or AWOL status of a patient detained in the Trust under the MHA.

5 Definitions

The Mental Health Act 1983 is an Act of the Parliament of the United Kingdom which applies to people in England and Wales. It covers the reception, care and treatment of mentally disordered persons, the management of their property and other related matters.

Mental disorder: any disorder or disability of the mind (DoH 1983)

Responsible Clinician- The Responsible Clinician is the Approved Clinician who will have overall responsibility for the patient’s treatment for mental disorder. They must be trained and registered as an Approved Clinician under the terms of the MHA and would usually be a Consultant Psychiatrist.

Approved Clinician- A mental health professional approved by the Secretary of State for Health to act as an Approved Clinician for the purposes of the MHA.

Detention- refers to a patient who is held compulsorily in hospital under the MHA for a period of assessment or medical treatment.

Hospital managers- In the context of the MHA refers to the individual or body responsible for a particular hospital.

Mental Capacity Act (MCA)- The Mental Capacity Act 2005, which provides a legal framework for decision-making in relation to people who lack capacity to take particular decisions for themselves.

6. Detention under the MHA

6.1 MHA and Consent to Treatment

6.1.1 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.

6.1.2 Not all detention sections of the MHA allow compulsory treatment for mental disorder. Clear advice must be sought from the Responsible Clinician involved in the patient’s care or the MHA Office at St Nicholas’
Hospital. The compulsory treatment of physical conditions using the MHA 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 Mental Capacity Act and Deprivation of Liberty provisions should be applied.

6.1.3 The MHA 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 (DOH 2015).

6.1.4 Rights of appeal exist to an independent tribunal and also directly to the Mental Health Act Office.

6.1.5 The MHA states that dependence on alcohol or drugs is not considered to be a disorder or disability of the mind and that there are therefore no grounds under the Act for detaining a person in hospital on the basis of alcohol or drug dependence alone.

6.2 The Process of Detention

The MHA 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 of detention 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.

Professional communication support or relevant equipment (as outlined in section 6.4.1) MUST be provided to patients who need this so that they can have an opportunity to understand the process.

Applicable MHA sections include:

5(2) - Holding power for 72 hours by Doctor (Consultant or Responsible Clinician in charge of the patient’s care or nominated deputy)
2 - Detention for 28 days for assessment of mental disorder (Responsible Clinician)
3 - Detention for 6 months (Responsible Clinician)
4 - Detention for 72 hours by an Approved Mental Health Practitioner (AHMP) and a medical recommendation from one doctor in exceptional circumstances
136 - Removal by Police to designated Place of Safety (may include the Emergency Department)

The Trust process is outlined in Appendix 1 and summarised below:

6.2.1 The emergency decision to detain a patient using the MHA can only be made by clinical staff with the authority to do so.
6.2.2 Each patient detained must have a Responsible Clinician allocated via the Psychiatric Liaison team and documented in the medical record with the exception of Sec 4, 5(2), 5(4) and 136.

6.2.3 When this decision has been made by the appropriate person the nurse in charge of the ward must inform the PSCs, the patient’s Consultant and the Directorate Management team.

6.2.4 The decision to hold or detain with the date and time of detention must be documented in both the nursing and medical notes.

6.2.5 The necessary documentation should be obtained from the PSC and the correct detention forms and documentation completed as outlined in Appendices 3 and 4.

6.2.6 Mental Health Legislation Nurse Practitioner (NTW) to be contacted or message left out of hours, who will check, transport papers and support patient’s explanation of rights.

6.2.7 The PSC notes that MHA section documentation has been issued and sends a notification to the Nurse Specialist – Patient Safety

6.2.8 If a patient detained by the Trust dies or is absent without leave the Nurse Specialist – Patient Safety must be informed so that the CQC can be notified as required.

6.3 Resource Information

Within the Trust a number of MHA Resources are available, which guide staff through the process, and ensure the availability of the necessary legal documents which are available from the PSCs on both sites (and links through policy).

This policy and the resources must be referred to whenever a patient of The Newcastle upon Tyne Hospitals NHS Foundation Trust is being detained in accordance with the MHA, and can be accessed by contacting the PSC for the relevant site. The PSC Matron is responsible for ensuring that these resources are kept up to date in liaison with the MHA Office, NTW.

6.4 Patient and relative information

The MHA requires that managers ensure that patients who are detained under the Act understand important information about how it applies to them and that they are able to ask for an Independent Mental Health Advocate (IMHA) and given leaflet. Information must be given to the patient both orally and in writing and must be given in a way that the patient understands.

The MHA also requires that the patient’s next of kin is given a written copy of any information given to the patient unless the patient requests otherwise. The nearest relative should also be told when the detention period is completed and offered support as appropriate.
People who are not able to communicate effectively in written and/or spoken English or who are deaf or hard of hearing may require language services such as interpreting and translations.

Where patients have specific communication and information needs this must be identified as early as possible in the patient journey and clearly documented in the patient record. It is the healthcare professional's responsibility to offer the communication and information support that the person needs. For people with a visual impairment support may involve producing information in another format such as large print or Braille.

For patients with translation needs this includes the provision of trained professional interpreters to ensure professional interpreting standards and accountability. Further information about booking interpreters and specific guidance on communicating with patients with additional communication requirements is available within the Interpreter and Translation Service Policy. Where disabled patients require reasonable adjustments, these should be made.

Other staff such as the Safeguarding Team, Dementia Care Team, Learning Disability Team and Chaplaincy Team may be able to support the process for the patient and family.

6.5 Notifications

The Trust must notify the Care Quality Commission (CQC) of the death or unauthorised absence of patients detained or liable to be detained under the MHA. In this instance the unauthorised absence of a detained person becomes notifiable to the CQC when the person is still absent after midnight on the day their absence began.

In the event of a death of unauthorised absence of a patient detained, the Nurse Specialist – Patient Safety must be informed so that the CQC is notified as required.

6.6 Reporting and Record Keeping

The following table summarises the responsibilities for reporting and recording:

<table>
<thead>
<tr>
<th>Action</th>
<th>Responsibility</th>
</tr>
</thead>
<tbody>
<tr>
<td>Evidence of written documentation of the detention of a patient will be required in the Medical and Nursing Notes. Documenting circumstances leading to detention under the MHA and which part and section of the Act.</td>
<td>Medical Staff to ensure this information is recorded in Clinical Records, Nursing staff to ensure this information is recorded in the patient's care plan.</td>
</tr>
<tr>
<td>Allocation of a Responsible Clinician to each patient.</td>
<td>Medical Director via Psychiatric Liaison Team</td>
</tr>
<tr>
<td>Action</td>
<td>Responsibility</td>
</tr>
<tr>
<td>----------------------------------------------------------------------</td>
<td>-----------------------------------------------------</td>
</tr>
<tr>
<td>Ensuring that the relevant documentation is correctly forwarded to</td>
<td>PSC, Newcastle Hospitals</td>
</tr>
<tr>
<td>the MHA Office, and that photocopies have been retained in the</td>
<td></td>
</tr>
<tr>
<td>patient’s clinical records.</td>
<td></td>
</tr>
<tr>
<td>Ensuring that all necessary steps have been completed using the</td>
<td></td>
</tr>
<tr>
<td>checklist at Appendix 2.</td>
<td></td>
</tr>
<tr>
<td>Notifying the Nurse Specialist – Patient Safety that a patient has</td>
<td></td>
</tr>
<tr>
<td>been detained.</td>
<td></td>
</tr>
<tr>
<td>Co-ordinating the process, when a detained patient appeals to the</td>
<td>MHA Office, NTW</td>
</tr>
<tr>
<td>MHA Review Tribunal. To collect and collate necessary reports.</td>
<td></td>
</tr>
<tr>
<td>Providing educational training and awareness sessions for key staff.</td>
<td>The Newcastle upon Tyne Hospitals NHS Foundation</td>
</tr>
<tr>
<td>MHA Office, NTW</td>
<td>Trust in collaboration with the Trust solicitors.</td>
</tr>
<tr>
<td>Providing MHA documentation resources for the PSC</td>
<td>MHA Office, NTW</td>
</tr>
<tr>
<td>Ensure the relevant Clinical Team is kept fully appraised of any</td>
<td>MHA Office, NTW</td>
</tr>
<tr>
<td>changes to the status of patients detained under a section of Mental</td>
<td></td>
</tr>
<tr>
<td>Health Act 1983.</td>
<td></td>
</tr>
<tr>
<td>Notifying the CQC of the death or unauthorised absence of a person</td>
<td>Nurse Specialist – Patient Safety</td>
</tr>
<tr>
<td>who is detained or liable to be detained under the MHA.</td>
<td></td>
</tr>
</tbody>
</table>

7. **Training**

Training will be arranged by the Nurse Specialist – Patient Safety and delivered via the Trust solicitors to the PSCs and other key members of Newcastle Hospital’s staff as required and when there are any changes to the legislative process.

8. **Equality and Diversity**

The Trust is committed to ensuring that, as far as is reasonably practicable, the way we provide services to the public and the way we treat our staff reflects their individual needs and does not discriminate against individuals or groups on any grounds. This policy has been appropriately assessed.
9. Monitoring compliance with the policy

<table>
<thead>
<tr>
<th>Standard/process/issue</th>
<th>Monitoring and audit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Monitoring the application of the Mental Health Act in the Trust</td>
<td>Method: Report each occasion the Mental Health Act has been applied and any reports made to the CQC</td>
</tr>
<tr>
<td></td>
<td>By: Nurse Specialist – Patient Safety</td>
</tr>
<tr>
<td></td>
<td>Committee: Clinical Governance &amp; Quality Committee</td>
</tr>
<tr>
<td></td>
<td>Frequency: Annual</td>
</tr>
</tbody>
</table>

10. Consultation and review

The policy has been reviewed taking into account the local requirements of both the Newcastle upon Tyne Hospitals NHS Foundation Trust and the Northumberland, Tyne and Wear Mental Health Trust. The statutory requirements of the Care Quality Commission regarding the detention and notification process have also been taken into account.

The policy has been reviewed by the Medical Director, Nursing and Patient Services Director, the Director of Quality and Effectiveness, the Patient Services Co-ordinator Matron, the Mental Capacity Act/Deprivation of Liberty Lead and representatives from NTW.

11. Implementation

The reviewed policy will be implemented by meeting with the PSC Matron, Managers on Call, Senior Clinicians and other key staff and by inclusion in the Trust Policy newsletter and presentation to the appropriate Nursing, Patient Services and other clinical and professional forums.

12. References

- The Mental Health Act 1983 (as amended by the Mental Health Act 2007)
- Mental Health Act Code of Practice 2015
- Mental Capacity Act 2005

13. Associated documentation

- Consent policy
- Interpreter and Translation Service Policy
- Deprivation of Liberty Policy
- Mental Capacity Act
- Restraint Policy
Appendix 1: MHA process

Patient reviewed by Doctor with authority or Responsible Clinician

Decision to detain patient under appropriate section of the Mental Health Act

Nurse in Charge documents in nursing notes and informs:

Consultant

Documents in medical notes

Liaises with Responsible Clinician as required

Forms photocopied and filed in patient’s medical records

Patient Services Co-ordinator

Resource Pack

Forms completed by Dr. with authority as required for MHA section- see Appendix 2

Mental Health Legislation Nurse Practitioner will transport MHA papers to MHA office.

PSC informs Nurse Specialist – Patient Safety for central record and CQC notification

Directorate Management Team via Matron

Informs Psychiatric Liaison Team Also Mental Health Legislation Nurse Practitioner Tel 07789 834 784

Allocates Responsible Clinician

MHA dept co-ordinates MHA tribunal, informs of any change in status of detained patients and maintaining database

Allocate Resonsible Clinician
Appendix 2

Checklist for patients detained under the Mental Health Act in Newcastle Hospitals

The Mental Health Act (1983) applies to any patient over 18 who are judged to need to be detained by the Trust. It is important to follow correct procedures when a patient is detained to ensure the rights of the individual are recognised and the obligations of the Trust delivered. This checklist is intended to assist with ensuring that the procedures are followed.

<table>
<thead>
<tr>
<th>Action required</th>
<th>Action completed?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Decision made to detain patient by clinician with authority to do so.</td>
<td></td>
</tr>
<tr>
<td>Nurse in Charge must inform the Patient Service Co-ordinator who then ensures that the following actions are completed.</td>
<td></td>
</tr>
<tr>
<td>Nurse in charge documents in nursing notes.</td>
<td></td>
</tr>
<tr>
<td>Consultant informed.</td>
<td></td>
</tr>
<tr>
<td>Consultant or deputy documents in medical notes.</td>
<td></td>
</tr>
<tr>
<td>Directorate Management team informed via Matron.</td>
<td></td>
</tr>
<tr>
<td>Responsible Clinician allocated via Psychiatric Liaison team.</td>
<td></td>
</tr>
<tr>
<td>Executive Director informed</td>
<td></td>
</tr>
<tr>
<td>MHA section forms completed by clinician with authority to do so.</td>
<td></td>
</tr>
<tr>
<td>Section forms photocopied and filed in patient medical notes.</td>
<td></td>
</tr>
<tr>
<td>Original section forms to be safely stored and contact to be made with Mental Health Legislation Nurse Practitioner (message left out of hours) who will arrange to check and transport papers to the Mental Health Act Office.</td>
<td></td>
</tr>
<tr>
<td>Advocacy leaflet given to patient.</td>
<td></td>
</tr>
<tr>
<td>Advocacy leaflet given to nearest relative.</td>
<td></td>
</tr>
<tr>
<td>Action required</td>
<td>Action completed?</td>
</tr>
<tr>
<td>--------------------------------------------------------------------------------</td>
<td>-------------------</td>
</tr>
<tr>
<td>PSC informs Nurse Specialist-Patient Safety of patient detention via email</td>
<td></td>
</tr>
</tbody>
</table>
Consider which section of the MHA is most appropriate. (Patients may already be detained and arrive on one of these sections transferred from another hospital, they may also be on Section 17 leave).

Note: Where patients are transferred (on section 17 leave) into the hospital from mental health wards under a section of the MHA they are ‘detained’ to the mental health trust who carry this responsibility - liaison with them is imperative.

<table>
<thead>
<tr>
<th>Section of MHA</th>
<th>Description</th>
<th>Lasts for</th>
<th>Treatment</th>
<th>Discharge</th>
</tr>
</thead>
<tbody>
<tr>
<td>5(2)</td>
<td>Holding Power - used by Doctor (with authority - consultant or nominated deputy) or RC</td>
<td>72 hours</td>
<td>Normal consent rules apply. MCA may authorise treatment for mental disorder. Cannot be transferred, no leave.</td>
<td>Doctor (should be section 12 approved)</td>
</tr>
<tr>
<td>2</td>
<td>Detention for assessment for mental disorder. Patient must have an RC</td>
<td>28 days</td>
<td>Treatment for mental disorder rules apply. MCA cannot authorise treatment for mental disorder</td>
<td>RC, NR, MHT, HM</td>
</tr>
<tr>
<td>3</td>
<td>Detention for Treatment of mental disorder. Patient must have an RC</td>
<td>6 months +</td>
<td>Treatment for mental disorder rules apply (+ SOAD or consent after 3 months - T2 or T3 forms kept with drug card). MCA cannot authorise treatment for mental disorder</td>
<td>RC, NR, MHT, HM</td>
</tr>
<tr>
<td>4</td>
<td>Detention for assessment in cases of urgency necessity; requires only 1 medical recommendation</td>
<td>72 hours</td>
<td>Normal consent rules apply. MCA may authorise treatment for mental disorder. Can be transferred</td>
<td>RC, NR, MHT, HM</td>
</tr>
</tbody>
</table>

Nurse in charge must formally accept the section papers using form; Monitoring form and H3 for s.2, s.3, s.4. Forms should be copied, filed in patient notes & MHLNP contacted regarding checking and transport of original document's. Tel 07789 834 784

Mental Health Act Office, St Nicholas Hospital, Newcastle. Tel 0191 2232731 Fax 0191 2232476 (also contact for advice)

Contact: Liaison Team RVI 9-5: ext. 24842 After hours: on call SPR via 0 to mental health switch board

Inform MHLNP. Tel 07789 834784

**Abbreviations:**

- **RC** - Responsible Clinician, the person in charge of the patient’s care for their mental disorder, any RC must be a qualified Approved Clinician (AC).
- **NOK** - Next of Kin
- **MHT** - Mental Health Tribunal
- **MHLNP** – Mental Health Liaison Nurse Practitioner
- **HM** - Hospital Managers
- **SOAD** - Second Opinion Approved Doctor

Contact for advice & guidance:
Mental Health Act Office, St Nicholas Hospital, Newcastle.
Tel 0191 2232731; Fax 0191 2232476
Liaison Team RVI 9-5: ext. 24842 Please add contact details for Mental Health Legislation Nurse Practitioner. Tel 07789 834784 email - ken.hartley@ntw.nhs.uk

After hours: on call SPR via 0 to mental health switch board

Patient needs to be detained in hospital for mental disorder (assessment or treatment).

**Contact:** Liaison Team RVI 9-5: ext. 24842 After hours: on call SPR via 0 to mental health switch board

Inform MHLNP. Tel 07789 834784

A COPY OF THE FORM SHOULD BE GIVEN TO THE PATIENT

Consider the use of the Mental Capacity Act 2005 (especially when treatment is for physical illness). Is the MCA to be used?

No

Yes

Where restraint is used, along with other restrictive factors, consider if this amounts to a Deprivation of Liberty & seek advice.

**Contact:** Safeguarding team 0191 28 29336; out of hours - Patient Services Co-ordinator 28 29460

**Note:** Where patients are transferred (on section 17 leave) into the hospital from mental health wards under a section of the MHA they are ‘detained’ to the mental health trust who carry this responsibility - liaison with them is imperative.

**Abbreviations:**

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After hours: on call SPR via 0 to mental health switch board
Appendix 4 Mental Health Act 1983 (MHA) - Section 136 Guidance Newcastle Hospitals

<table>
<thead>
<tr>
<th>Section 136 Mental Health Act 1983</th>
<th>Lasts for</th>
<th>Treatment</th>
<th>Transfer</th>
<th>Advice Guidance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Police Power to remove a person from a public place to place of safety (PoS) when appearing to be suffering from a mental disorder and in immediate need of care or control.</td>
<td>72 hours starting when the person arrives at PoS</td>
<td>Normal consent rules apply; Mental Capacity Act can be used to authorise treatment for mental disorder</td>
<td>Can be transferred to another PoS during the 72 hours</td>
<td>Liaison Team 9-5: via NTW switch x24824 After hours: on call SPR x820, or, 0. Mental Health Act Office, St Nicholas Hospital, Newcastle. Tel 0191 2232731; Fax 0191 2232476 Memorandum of understanding exists for 136 place of safety</td>
</tr>
</tbody>
</table>

Places of safety -
- Place of Safety Suite within a mental health hospital - preferred PoS
- Police station - when aggressive/violent
- Emergency Dept - when physical treatment / assessment is required; only where this is consistent with concerns about urgent healthcare requirements. The ED may be used if all other PoS suite’s are not available.

Where the PoS identified is the Emergency Department (ED) the police, S.136 coordinator or the ambulance crew should inform the ED coordinator prior to the arrival of a patient and explain the medical need for attendance.

Police officers will confirm if the person is detained under S136 or under arrest for a criminal offence. The police officer(s) will remain with the patient throughout the assessment process in ED, to a conclusion or until transfer to another PoS. The monitoring form should be commenced jointly monitoring form 136.

ED staff should contact an AMHP as it would not necessarily be known upon arrival at ED how long the patient will remain there. To contact the AMHP call switchboard and ask for duty worker at social service for the relevant authority.

The AMHP should liaise with ED to co-ordinate the timing of any MH assessment. This could occur in the ED if the patient would need to remain there for some time; or; delayed for the short-period because the person will be safely transferred to another PoS and the assessment better conducted there.

Any relevant medical treatment plans following ED attendance should be given to the RMP in attendance at the PoS, this process should be facilitated by the AMHP.

If the patient is going to remain in the ED for some time for medical management then it is highly likely that they are not going to be able to have a formal MHA assessment at that point.

It is also likely that they are going to be admitted for ongoing in-patient medical care and this will be facilitated within 4 hours in all but exceptional clinical circumstances. If a patient is able to be promptly medically managed and, from an ED point of view, treatment is completed, then the patient should be transferred from the ED at the earliest opportunity. The patient should not be kept in the ED beyond that point awaiting MHA assessment in the ED.

Any time spent at ED needs to be included in the overall 72 hours maximums assessment period.

Anyone removed to ED and accepted there for assessment / treatment, should be informed of their rights whilst detained. This will be done verbally and by the provision of a ‘rights leaflet’

If it is possible for the ED staff to manage the physical healthcare requirements, rule out a medical or psychiatric emergency and or confirm that the person is considered ‘fit for discharge’ from ED, then the person should be considered for transfer to a ‘place of safety’ for conclusion of the mental health (act) assessment.

If the patient is discharged from ED but remains in detention under S136 for MH assessment elsewhere, it will be the responsibility of the ED staff to ensure the transmission of relevant information which may be required by PoS staff, police custody officers or the FME. This should not be done via the arresting officers.
The Newcastle upon Tyne Hospitals NHS Foundation Trust

Equality Analysis  Form A

This form must be completed and attached to any procedural document when submitted to the appropriate committee for consideration and approval.

PART 1

1. **Assessment Date:** 18/12/17

2. **Name of policy / strategy / service:**
   
   Patients Detained Under the Mental Health Act

3. **Name and designation of Author:**
   
   Karen Collingwood, Nurse Specialist – Patient Safety

4. **Names & designations of those involved in the impact analysis screening process:**
   
   Nursing and Patient Services Director, the Director of Quality and Effectiveness, the Patient Services Co-ordinator Matron, the Mental Capacity Act/Deprivation of Liberty Lead

5. **Is this a:**
   
   Policy X  Strategy  Service

   **Is this:**
   
   New  Revised

   **Who is affected**
   
   Employees  Service Users  Wider Community

6. **What are the main aims, objectives of the policy, strategy, or service and the intended outcomes?** (These can be cut and pasted from your policy)

   This policy aims to provide guidance to staff when patients are detained under the Mental Health Act

7. **Does this policy, strategy, or service have any equality implications?**  Yes  No X

   If No, state reasons and the information used to make this decision, please refer to paragraph 2.3 of the Equality Analysis Guidance before providing reasons:

   This policy is applicable to all individuals and does not discriminate against any persons individually or any collective groups of individuals.
8. Summary of evidence related to protected characteristics

<table>
<thead>
<tr>
<th>Protected Characteristic</th>
<th>Evidence, i.e. What evidence do you have that the Trust is meeting the needs of people in various protected Groups</th>
<th>Does evidence/engagement highlight areas of direct or indirect discrimination? If yes describe steps to be taken to address (by whom, completion date and review date)</th>
<th>Does the evidence highlight any areas to advance opportunities or foster good relations. If yes what steps will be taken? (by whom, completion date and review date)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Race / Ethnic origin (including gypsies and travellers)</td>
<td>Interpreter Policy and Service Mandatory EDHR Training</td>
<td>Disproportionate rates of people from BAME populations have been detained under the Mental Health Act 1983. <a href="https://www.mentalhealth.org.uk/statistics/mental-health-statistics-black-asian-and-minority-ethnic-groups">https://www.mentalhealth.org.uk/statistics/mental-health-statistics-black-asian-and-minority-ethnic-groups</a></td>
<td>Add providing communication support to the policy and the importance of working with professional interpreters and not family members</td>
</tr>
<tr>
<td>Sex (male/ female)</td>
<td>Mandatory EDHR Training</td>
<td>Men are more likely than women to be admitted formally under the Mental Health Act.</td>
<td>No</td>
</tr>
<tr>
<td>Religion and Belief</td>
<td>Mandatory EDHR Training Chaplaincy Services available for advice</td>
<td>Staff awareness of a patient’s religion and/or spirituality as well as their interpretations of mental events is a key component for effective treatment. Diagnosis, treatment and recovery prognosis are all likely to be adversely affected if health professionals and other service providers ignored the beliefs of patients. <a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/213764/dh_124514.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/213764/dh_124514.pdf</a></td>
<td>Add Chaplaincy support to the policy</td>
</tr>
<tr>
<td>Sexual orientation including lesbian, gay and bisexual people</td>
<td>Mandatory EDHR Training</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Age</td>
<td>Mandatory EDHR Training Dementia Support Team Digital Listening devices for patients who are hard of hearing</td>
<td>People with communication needs such as those who are hard of hearing may be misdiagnosed with Dementia.</td>
<td>Add Dementia Support Team to the policy</td>
</tr>
</tbody>
</table>
Impairment and mental health.
Consider the needs of carers in this section

Support
Learning Disability Support Services
Safeguarding Team particularly relating to Mental Capacity and DOL
Interpreting Services

“DDA [Disability Discrimination Act] applied eg a greater emphasis on reasonable adjustments in all mental health support services to meet the needs of all. In particular, the mental health needs of people with a learning disability – all aspects need to be accessible – from diagnosis, information, treatment, person centred approaches, etc.”

Reasonable adjustments and dementia support added to policy

<table>
<thead>
<tr>
<th>Gender Re-assignment</th>
<th>Mandatory EDHR Training</th>
<th>No</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>Marriage and Civil Partnership</td>
<td>Mandatory EDHR Training</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Maternity / Pregnancy</td>
<td>Mandatory EDHR Training</td>
<td>No</td>
<td>No</td>
</tr>
</tbody>
</table>

9. Are there any gaps in the evidence outlined above? If ‘yes’ how will these be rectified?

No

10. Engagement has taken place with people who have protected characteristics and will continue through the Equality Delivery System and the Equality Diversity and Human Rights Group. Please note you may require further engagement in respect of any significant changes to policies, new developments and or changes to service delivery. In such circumstances please contact the Equality and Diversity Lead or the Involvement and Equalities Officer.

Do you require further engagement? Yes [ ] No [ X ]

11. Could the policy, strategy or service have a negative impact on human rights? (E.g. the right to respect for private and family life, the right to a fair hearing and the right to education?)

This policy supports the right to life

PART 2

Name: Karen Collingwood
Date of completion:

18/12/17

(If any reader of this procedural document identifies a potential discriminatory impact that has not been identified, please refer to the Policy Author identified above, together with any suggestions for action required to avoid/reduce the impact.)