The Newcastle upon Tyne Hospitals NHS Foundation Trust

Patients’ Wills Policy

Version No: 5.0
Effective From: 7 September 2017
Expiry Date: 31 August 2018
Date Ratified: 30 August 2017
Ratified By: Executive Team

1 Introduction

This policy is to provide guidance on assisting patients who request to make a will whilst in the Trust’s care.

2 Scope

This policy applies to all staff who may receive a request from a patient that they are caring for to make a will.

3 Aim

This policy is to advise Trust staff on the practical and legal arrangements for preparation of a patient will.

4 Duties

All staff have a responsibility to facilitate a request made by a patient to make a will and therefore are responsible for ensuring that the principles outlined within this policy are universally applied.

The Trust Secretary is responsible for providing advice to staff that are caring for a patient who has requested to make a will in accordance with this policy.

5 Definitions

Patient Will: A will is a document in which a person specifies the method to be applied in the management and distribution of his or her estate after death.

6 Patient Requesting to Make a Will

6.1 If a patient, whilst under the care of The Newcastle upon Tyne Hospitals NHS Foundation Trust, asks a member of staff if they can make a will the clinical and administration staff should assist the patient in facilitating the witness arrangements for the will. Trust staff should not write any will documentation – it is the responsibility of the patient to write the will itself. For a will to be valid it must:
• be in writing (or typewritten);
• be signed by the patient making the will (or by an individual that the patient has identified to sign in his/her presence and under his/her direction); and
• include the patient’s signature which must be made (or acknowledged by the patient) before at least two witnesses both present at the same time as the will is signed by these two witnesses.

6.2 Once a request by a patient has been made the patient should be advised that a solicitor should be contacted.

6.3 If the patient has their own solicitor, or wishes to have a solicitor present, then a solicitor should be contacted by the patient or their representative and asked to come into the hospital at a time convenient to the patient. Nursing staff should ensure that appropriate arrangements are made for the solicitor to visit the patient irrespective of visiting times.

6.4 If the patient does not have a solicitor, or does not wish to have a solicitor present, then the patient is able to make a will themselves as detailed in section 7 of this policy.

7 Patients Making a Will without the Presence of a Solicitor

7.1 In order for a patient to draw up a will then a member of the medical staff must have determined that the patient was capable of doing so at the time, after a Capacity Assessment had been successfully completed. A doctor’s record of this should be included within the patient’s notes.

7.2 The patient’s own signature and two witness signatures must be included on the will document. These two signatures must be administered by two different people who are completely independent. They must not be related to the patient by blood or marriage and must not be a beneficiary or the spouse of a beneficiary, or an individual who is to act as a professional Executor of the will. It is the responsibility of the witnesses to witness the signature of the patient. Witnesses do not need to know the contents of the will as their role is in witnessing the signature.

7.3 The will document should be dated and set out in clear simple language stating what the person making the will wants done with their property after death and should, preferably appoint an executor or executrix.

7.4 It is preferable that members of staff should not witness wills and specifically clinical and nursing staff caring for the patient must not witness the will. If the patient does not have any family/friends available to witness their will then the individuals identified in section 7.6 are permitted to do so. In all circumstances a member of staff should not witness a patient’s will unless he/she believes the patient understands what he/she is doing and is doing so entirely voluntarily.

7.5 If a will is to be drawn up by the patient the Trust Secretary can be contacted for advice via the Corporate Services Office on extension 26055.
7.6 During “Office Hours” then the Matron in charge on the Ward should be contacted to facilitate the arranging of two witnesses. The following members of staff may witness a Patient Will:
   o Any member of independent clinical/nursing staff/admin staff who is not involved in clinical/nursing care for the patient and who is not a beneficiary. Such staff must be from a separate ward to that which the patient is being treated on.
   o The Trust Secretary.
   o The Trust Legal and Committee Services Manager.

7.7 Should it be imperative that a will be drawn up out of "Office Hours" then the Patient Services Coordinator should be contacted who will arrange for two witnesses to the patient’s signature. These will be the Patient Services Coordinator and the most senior members of the portering staff and security staff on duty at the time.

7.8 Once a will has been drawn up the Trust Secretary must be informed via the Corporate Services Office on extension 26055 that a will has been made. The Trust Secretary should also be informed whether the patient has made a will with or without the presence of a solicitor and copy of the patient will should also be sent securely to the Trust Secretary. This will facilitate with monitoring of policy compliance as per section 9 below.

8 Training

9 Equality and Diversity

The Trust is committed to creating an environment where all who use its premises are treated with dignity and respect, and no one receives less favourable treatment on the grounds of their age, disability, race, nationality, ethnic origin, sex, sexual orientation, religion and belief, gender reassignment identity/expression, marriage and civil partnership or pregnancy and maternity.

This document has been appropriately assessed, as detailed in the Equality Assessment.

10 Monitoring compliance

<table>
<thead>
<tr>
<th>Standard / process / issue</th>
<th>Monitoring and audit Method</th>
<th>By</th>
<th>Committee</th>
<th>Frequency</th>
</tr>
</thead>
</table>
| Development of a patient will following a request made by them | • Snapshot random audit of the validity of patient wills created on site from all areas of the Trust.  
• The effectiveness of this policy will be monitored | Trust Secretary with the assistance of the Corporate Services Office | Risk Management & Assurance Committee | Annually |
through the Trust’s Management and Reporting of Accidents and Incidents Policy and in addition through the Concerns and Complaints Policy. Trends of non-compliance will be identified from reporting of incidents and complaints to the Risk Management & Assurance Committee and the Clinical Governance and Quality Committee.

11 Consultation and review

11.1 The policy and its application will be reviewed as necessary and action taken to ensure the guidance for staff and patients is understood and adhered to.

11.2 This policy will be reviewed every three years or as National or local changes in policy dictate.

11.3 Any comments, queries or suggested amendments should be addressed to the Trust Secretary.

12 Implementation (including raising awareness)

This Policy will be published in the Trust Policy Newsletter and be available on the Policies Database on the intranet and on the Trust’s web site.

13 References

14 Associated documentation

- Concerns and Complaints Policy
- Management and Reporting of Accidents and Incidents Policy
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: 24/08/17

2. **Name of policy / strategy / service:**
   - Patients Wills Policy

3. **Name and designation of Author:**
   - Kelly Jupp, Trust Secretary

4. **Names & designations of those involved in the impact analysis screening process:**
   - Kelly Jupp, Trust Secretary

5. **Is this a:**
   - Policy x
   - Strategy
   - Service
   - Is this:
     - New
     - Revised x
   - Who is affected
     - Employees x
     - Service Users x
     - 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)**
   - The policy is to advise Trust staff on the practical and legal arrangements for preparation of a patient will.

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:
     - The policy applies equally to all staff – it is a Trust wide Policy – see comments in section 8 below.
## 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>The Policy is a Trust wide policy which applies equally to all staff and the aim of the policy to provide guidance to staff on assisting patients who request to make a will whilst in the Trust’s care. The Trust recognises the diversity of cultures, religions and abilities of all of its employees.</td>
<td>No areas identified.</td>
<td>No areas identified.</td>
</tr>
<tr>
<td>Sex (male/ female)</td>
<td>The policy is to provide guidance to all employees of the Trust irrespective of their gender.</td>
<td>No areas identified.</td>
<td>No areas identified.</td>
</tr>
<tr>
<td>Religion and Belief</td>
<td>The Trust recognises the diversity of cultures, religions and abilities of its employees. Staff are not mandated in witnessing a patient will and can choose whether or not they wish to do so.</td>
<td>No areas identified.</td>
<td>No areas identified.</td>
</tr>
<tr>
<td>Sexual orientation including lesbian, gay and bisexual people</td>
<td>The Policy is a Trust wide policy which provides guidance equally to all staff.</td>
<td>No areas identified.</td>
<td>No areas identified.</td>
</tr>
<tr>
<td>Age</td>
<td>The policy is to provide guidance to all employees of the Trust irrespective of their age.</td>
<td>No areas identified.</td>
<td>No areas identified.</td>
</tr>
<tr>
<td>Disability – learning difficulties, physical disability, sensory impairment and mental health. Consider the needs of carers in this section</td>
<td>The Policy is a Trust wide policy which provides guidance equally to all staff.</td>
<td>No areas identified.</td>
<td>No areas identified.</td>
</tr>
<tr>
<td>Gender Re-assignment</td>
<td>The policy is to provide guidance to all employees of the Trust irrespective of their gender.</td>
<td>No areas identified.</td>
<td>No areas identified.</td>
</tr>
<tr>
<td>Marriage and Civil Partnership</td>
<td>The Policy is a Trust wide policy which</td>
<td>No areas identified.</td>
<td></td>
</tr>
<tr>
<td>Maternity / Pregnancy</td>
<td>The Policy is a Trust wide policy which provides guidance equally to all staff.</td>
<td>No areas identified.</td>
<td>No areas identified.</td>
</tr>
</tbody>
</table>

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

   No gaps identified

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?)**

   No

**PART 2**

Name: Kelly Jupp

Date of completion: 24/08/17

(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.)