Section 132 of the Mental Health Act 1983
Procedure for Informing Detained Patients of their Legal Rights
## CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page No</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. INTRODUCTION</td>
<td>3</td>
</tr>
<tr>
<td>2. PURPOSE</td>
<td>3</td>
</tr>
<tr>
<td>3. SCOPE</td>
<td>3</td>
</tr>
<tr>
<td>4. RESPONSIBILITIES, ACCOUNTABILITIES and DUTIES</td>
<td>3</td>
</tr>
<tr>
<td>4.1 Mental Health Legislation Committee</td>
<td>3</td>
</tr>
<tr>
<td>4.2 Hospital Managers under Section 23 of the Mental Health Act</td>
<td>4</td>
</tr>
<tr>
<td>4.3 Independent Mental Health Advocates</td>
<td>4</td>
</tr>
<tr>
<td>4.4 Registered Clinical Staff</td>
<td>5</td>
</tr>
<tr>
<td>4.5 Care co-ordinators</td>
<td>5</td>
</tr>
<tr>
<td>4.6 Non-registered clinical staff</td>
<td>5</td>
</tr>
<tr>
<td>4.7 Mental Health Act Office</td>
<td>6</td>
</tr>
<tr>
<td>5. PROCEDURE/IMPLEMENTATION</td>
<td>6</td>
</tr>
<tr>
<td>5.1 Availability of Information</td>
<td>6</td>
</tr>
<tr>
<td>5.2 Information to Informal Patients</td>
<td>6</td>
</tr>
<tr>
<td>5.3 Information to Detained Patients</td>
<td>7</td>
</tr>
<tr>
<td>5.4 Information on Consent to Treatment</td>
<td>8</td>
</tr>
<tr>
<td>5.5 Information on Rights to Vote</td>
<td>8</td>
</tr>
<tr>
<td>5.6 Information on access to the independent advocacy services</td>
<td>8</td>
</tr>
<tr>
<td>5.7 Discharge from Detention</td>
<td>8</td>
</tr>
<tr>
<td>5.8 Information about the role of the Care Quality Commission</td>
<td>9</td>
</tr>
<tr>
<td>5.9 Information to the nearest relative of Detained patients</td>
<td>9</td>
</tr>
<tr>
<td>5.10 Action if the patient has no nearest relative</td>
<td>9</td>
</tr>
<tr>
<td>5.11 Who is responsible for explaining the Legal Rights to a patient</td>
<td>9</td>
</tr>
<tr>
<td>5.12 Explaining and Understanding</td>
<td>10</td>
</tr>
<tr>
<td>5.13 Patients whose first language is not English or who have particular needs</td>
<td>10</td>
</tr>
<tr>
<td>5.14 Explanation of legal rights to a minor/younger adult</td>
<td>11</td>
</tr>
<tr>
<td>5.15 Recording the reading of rights to a patient</td>
<td>12</td>
</tr>
<tr>
<td>6. TRAINING IMPLICATIONS</td>
<td>13</td>
</tr>
<tr>
<td>7. MONITORING ARRANGEMENTS</td>
<td>14</td>
</tr>
<tr>
<td>8. EQUALITY IMPACT ASSESSMENT SCREENING</td>
<td>15</td>
</tr>
<tr>
<td>8.1 Privacy Dignity and Respect</td>
<td>15</td>
</tr>
<tr>
<td>8.2 Mental Capacity Act</td>
<td>16</td>
</tr>
<tr>
<td>9. LINKS TO ANY ASSOCIATED DOCUMENTS</td>
<td>16</td>
</tr>
<tr>
<td>10. REFERENCES</td>
<td>16</td>
</tr>
<tr>
<td>11. APPENDICES (none)</td>
<td>17</td>
</tr>
</tbody>
</table>
1. **INTRODUCTION**

All patients whether they are detained under the Mental Health Act 1983 (MHA 1983) or not must be informed of their legal rights whilst being cared for by the service.

For informal patients it is important that they are aware that should they wish to leave the hospital they are advised to discuss this with their Consultant Psychiatrist or the Duty Doctor (in the absence of their Consultant) along with the Nurse in Charge of the ward, so that appropriate arrangements can be made for their safe discharge.

With regard to patients who are already detained, the MHA 1983 requires hospital managers to take steps to ensure that patients who are detained in hospital under the MHA 1983 or who are on Community Treatment Orders (CTO) understand important information about how the MHA 1983 applies to them. This must be done as soon as practicable after the start of the patient’s detention or CTO. Information under section 132 must also be provided to patients subject to a CTO, who are recalled to hospital at the time they are being recalled (Code of Practice 2015 4.9).

It must also be remembered that explaining patient's rights to them is not a one-off event but needs to be ongoing throughout their detention as a person's level of understanding can fluctuate.

2. **PURPOSE**

The purpose of this procedure is to:

- Provide clinical staff with a clear framework in which to operate the legal requirements of section 132;
- Provide a consistent approach across the Care Groups in the application of section 132;
- Detail the responsibilities and duties of staff in relation to section 132;
- State what training is available to staff in relation to the MHA 1983 and in particular section 132;
- Detail what arrangements the Trust has in place to monitor compliance with the legal requirements of section 132.

3. **SCOPE**

The contents of this procedure apply to all clinical staff working within the Trust’s Care Groups.

4. **RESPONSIBILITIES, ACCOUNTABILITIES and DUTIES**

4.1 **Mental Health Legislation Committee**

The Trust’s Mental Health Legislation Committee is responsible for:

- Overseeing the implementation of the MHA 1983 within the organisation;
• The review and issuing of all policies and procedures which relate to the MHA 1983;
• Monitoring the Trust’s compliance with the legal requirements of the MHA 1983;
• Undertaking audit work and agreeing action plans in relation to the MHA 1983;
• Providing an annual report on MHA 1983 activity within the Trust to the Board of Directors.

4.2 Hospital Managers under the MHA 1983

Whilst the MHA 1983 uses the term “Hospital Managers”, in NHS Foundation Trusts the Trusts themselves are defined as the “Hospital Managers”. They have certain statutory duties they must fulfil under the MHA 1983 and some of these duties including the explaining of legal rights under section 132 MHA 1983 can be delegated by the hospital managers but in delegating this responsibility they must be satisfied that:

• The correct information is given to the patient/nearest relative (with the patient’s consent);
• The information is given in a suitable manner and at a suitable time, and, in accordance with the law;
• The member of staff who is to give the information has received sufficient guidance and is aware of the key issues regarding the information to be given;
• A record is kept of the information given, including how, when and by whom it was given;
• A regular check is made that the information has been properly given to each detained patient and understood by him or her;
• There are processes in place to monitor the explanation to patients of their legal rights under section 132.

4.3 Independent Mental Health Advocates (IMHA)

The role of the IMHA is to help qualifying patients (those detained under the MHA 1983, conditionally discharged, subject to guardianship or a CTO but not those detained under Section 4, Section 5, Section 135 or 136) understand the legal provision to which they are subject under the MHA 1983 and the rights and safeguards to which they are entitled. This could include assistance in obtaining information about any of the following:

• The provisions of the legislation under which she/he qualifies for an IMHA;
• Any conditions or restrictions she/he is subject to, for example; any arrangements made for section 17 leave;
• The medical treatment being given, proposed or being discussed and the legal authority under which this would be given;
• The requirements that would apply in connection with the giving of the treatment;
• Their rights under the MHA 1983 and how those rights can be exercised.
4.4 Registered Clinical Staff

In relation to this procedure all registered clinical staff must be aware of and comply with the contents of this procedure by providing inpatients with information about:

- Any conditions or restrictions she/he is subject to, for example, any arrangements made for Section 17 leave;
- The medical treatment being given, proposed or being discussed and the legal authority under which this would be given;
- The requirements that would apply in connection with the giving of the treatment;
- Their rights under the MHA 1983 and how those rights can be exercised;
- The rights of qualifying patients to the services of an IMHA and how to obtain one.

Registered Clinical staff should also:

- Attend any training which is provided in relation to this procedure;
- Complete all the necessary documentation required;
- Implement any action plans which arise from the audit of this procedure.

4.5 Care Co-ordinators

Care Co-ordinators are responsible for providing patients who are on a CTO with information about:

- Any conditions or restrictions she/he is subject to for example any specific requirements around residency;
- The medical treatment being given, proposed, or being discussed and the legal authority under which this would be given;
- The requirements that would apply in connection with the giving of the treatment;
- Their rights under the MHA 1983 and how those rights can be exercised;
- The rights of qualifying patients to the services of an IMHA and how to obtain one.

Care Co-ordinators should also:

- Complete all the necessary documentation required.

4.6 Non-registered clinical staff

Any non-registered staff working within clinical services must:

- Be aware of this procedure and its contents;
- Direct any patient who has a query about their legal rights to a member of registered staff;
• Report any breaches they become aware of in relation to this procedure.

4.7 Mental Health Act Office

Within each of the Trust localities where inpatient services are provided there is a Mental Health Act office and in relation to this procedure the staff working in these offices are responsible for:

• Providing clinical staff with copies of the appropriate patient information leaflets;
• Monitoring the initial and on-going explanation of their legal rights to detained patients, via the receipt of Form 14a and via the Form 14b via the audit (as below);
• Co-ordinating the twice yearly audit to monitor compliance with the requirements of this procedure;
• Co-ordinating requests by patients for an appeal to the Hospital Managers and/or the First Tier Tribunals Service;
• Co-ordinating the referrals to the IMHA service.

5. PROCEDURE/IMPLEMENTATION

5.1 Availability of Information

For all patients, relevant information should be given to them as soon as is practicable, following:

• Admission to Hospital;
• Commencement of a period of detention under the MHA 1983;
• Detention under another section of the MHA 1983; and
• Renewal of any period of detention or extension of CTO.

The information must be given both verbally and in writing, and detained patients must be given a copy of the statutory information leaflet which is provided by the Department of Health.

Copies of any available information should also be displayed on the ward notice boards/leaflet racks.

5.2 Information to Informal Patients

Though section 132 is specific to detained patients, information regarding their legal rights and treatment should also be provided on an ongoing basis to informal patients.

Information on Advocacy services should also be made available to informal patients.

They should also be made aware of the fact that if they wish to leave hospital but it is felt that they need remain for a period of assessment and/or
treatment, they could be assessed for possible detention under the MHA 1983.

5.3 Information to Detained Patients

Any detained patient must be informed as soon as possible both verbally and in writing of the following:

- Of the provisions of the MHA 1983 under which they are being detained or subject to CTO and the effect of those provisions;
- Of the rights (if any) of their nearest relative to discharge them (and what can happen if their Responsible Clinician does not agree with that decision);
- For Community patients, of the effect of the CTO, including the conditions which they are required to keep and the circumstances in which their Responsible Clinician may recall them to hospital; and
- That help is available to them from an IMHA, and how to obtain that help;
- The reasons for their detention or CTO;
- The maximum length of the current period of detention or CTO;
- That their detention or CTO may be extended at any time if it is no longer required or the criteria for it are no longer met;
- That they will not automatically be discharged when the current period of detention or CTO ends;
- That their detention or CTO will not automatically be renewed or extended when the current period of detention or CTO ends;
- The reasons for being recalled; and
- For patients subject to a CTO, the reasons for the revocation of a CTO.
- Their rights of appeal to both the Hospital Managers and the First Tier Tribunals Service. Appropriate details of address/telephone numbers should also be given along with guidance on how to make an application;
- That if they are detained on a Treatment Order (including a CTO) should it be renewed/extended for a further 6-month period and they do not appeal to the First Tier Tribunal in the first period of detention, then the Trust will automatically refer their case;
- That they have the right of legal representation at the First Tier Tribunal and are given a list of solicitors who are specifically trained in Mental Health Law;
- The nature and likely effects of any treatment which is planned (refer to section 5.4 of this procedure for further details);
- The role and powers of the Care Quality Commission (CQC) and how to make a complaint to them. The address and telephone number should also be supplied;
- Their right to receive or send correspondence and whether there are any constraints on this;
- The power of the patient’s nearest relative to request discharge or to make an appeal on the patient’s behalf;
- The procedure for making a formal complaint to the Trust;
• The patient’s financial entitlements whilst in hospital and how to secure them;
• Details of the Visiting Policy for the unit and in particular any restrictions around the visiting of children;
• The need to share/disclose information to other agencies/workers;
• After care entitlement under section 117 (if applicable) and the implications of this; and
• Discharge procedures under the Care Programme Approach (CPA).

5.4 Information on Consent to Treatment

All patients, regardless of their legal status, must be informed of:

• The nature, purpose and likely effects of any treatment which is planned;
• The circumstances (if any) in which they can be treated without their consent and the circumstances in which they have the right to refuse treatment;
• The role of the second opinion appointed doctors (SOADs) and the circumstances in which they may be involved; and
• (where relevant) the rules on electro-convulsive therapy (ECT) and medication administered as part of ECT.

5.5 Information on Rights to Vote

The Representation of the People Act 2000 makes it clear that in most circumstances, detained patients can still exercise their right to vote in general or other elections. To allow patients to exercise this right the Trust should give information to them about their voting rights.

5.6 Information on access to the independent advocacy services

Access to independent advocacy services, is available in all areas of the Trust and all patients, regardless of their legal status, should be given information about the independent advocacy service, and how to access it.

For those patients detained under the MHA 1983 who are eligible to an Independent Mental Health Advocate (IMHA) the Mental Health Act Office will automatically make a referral to the Independent Advocacy Service.

Where independent advocacy services are available the inpatient wards will display on their patient information boards the days and times as to when the advocates will be on the unit.

5.7 Discharge from Detention

When the patient is discharged from detention or if the authority for detention expires, the section’s end date/time and the patient’s right to leave hospital should be made known to them.
5.8 **Information about the role of the Care Quality Commission (CQC)**

All patients, regardless of their legal status, should be given information about:

- The role of the CQC;
- When the CQC is next due to visit the service;
- Their rights to meet with the CQC during a visit; and
- Their rights to make a complaint to the CQC.

5.9 **Information to the nearest relative of Detained Patients**

On admission or as soon as practical thereafter, the patient should be made aware of the fact that their nearest relative, within the meaning of the MHA 1983, will be supplied with a copy of the written information of their rights, unless the patient objects.

Staff should also ascertain if the patient has an advance statement in place giving details of any other person they wish to be notified of their detention under the MHA 1983. If there is, the Mental Health Act Office is to be notified so that arrangements can be made for the necessary information to be sent.

A copy of the letter sent by the Mental Health Act Office to the patient’s nearest relative will be held in the patient’s records.

If the patient does not wish their nearest relative to be informed of their detention this is to be recorded on the appropriate section 132 form.

5.10 **Action if the patient has no nearest relative**

Under the MHA 1983 the nearest relative is empowered to undertake key functions which safeguard the interests of the patient and for this reason it is important that all detained patients have someone to act in this capacity.

The responsibility for identifying the patients nearest relative rests with the Approved Mental Health Professional (AMHP) and for patients who have no known nearest relative or the relative is unwilling or unable to act; the AMHP should advise the patient of their right to make an application to the County Court for the appointment of a person to act as their nearest relative. If the patient lacks capacity to decide to apply themselves, the AMHP should apply to the County Court.

(Staff should refer to the procedure for Court’s appointing an Acting Nearest Relative)

5.11 **Who is responsible for explaining the Legal Rights to a patient**

The responsibility for explaining a patient’s rights to them under section 132 lies with all the qualified staff involved in the patient’s care and treatment. All qualified staff will receive training on the MHA 1983 which includes informing patients of their legal rights under section 132.
5.12 Explaining and Understanding

The explaining of a patient’s rights is an ongoing process throughout their stay in hospital or period of detention on a CTO and should be done both verbally and in writing.

It should be done in a suitable manner, at a suitable time, taking into account the patient’s mental state and capacity to retain information. Staff should not rush through the process but give it their full attention, spending as much time as necessary with the patient in a private area free from interruption allowing time for questions to be asked. Carers and advocates should be involved where the patient wishes or if the patient lacks capacity to understand.

Consideration also needs to be given to the fact that there are some patients who have difficulties relating to their capacity to understand or the ability to retain the information given to them for any length of time. Whilst these patients are detained under the MHA 1983, the Mental Capacity Act Code of Practice (2007) advocates good practice in relation to detained patients who lack capacity or have fluctuating capacity. In these situations staff need to comply with the principles of the Mental Capacity Act (2005) and its associated Code of Practice (2007) and take all reasonable steps to provide information in a suitable format, i.e. easy word version large print version or pictorially in order to facilitate capacity to understand if at all possible. Staff need to be aware that they may have to explain their rights to such individuals on more than one occasion in the first instance and on a more frequent and ongoing basis.

There are standard leaflets for each of the sections which are to be given to the patient.

Once an explanation of their legal rights has been given to the patient staff must take steps to ascertain their level of understanding. If it is identified that a patient lacks the capacity to understand even after all attempts to assist them have been undertaken, their lack of capacity should be documented in their clinical records via an MCA1 Form. However, staff need to be aware that in the majority of cases any lack of capacity will not be permanent and in view of this staff must continue in their attempts to facilitate the patients understanding.

5.13 Patients whose first language is not English or who have particular needs

Section 132 places a duty on the Trust to take all reasonable steps to facilitate the patient’s understanding of their legal rights. If the patient is not fluent in English or has a learning or sensory impairment, arrangements must be made for the explanation of their rights to be delivered in a manner which is appropriate to their needs.

All the section information leaflets are available from the Mental Health Act offices in languages other than English, and arrangements can be made for it
to be provided in Braille and audio format. Arrangements are in place within each locality for staff to have access to these outside normal working hours. Interpreters and signers can also be arranged and staff should refer to the Trust procedure for access to and use of interpreters for further details.

However, in respect of this procedure interpreters should:

- Fully understand the terminology and conduct of a mental health interview;
- Have knowledge of the patient’s cultural and religious values;
- Be able to interpret the law; and
- Be of a gender which accords with the patient’s wishes.

**NB:** It is not desirable that relatives be asked to act as interpreters.

### 5.14 Explanation of legal rights to a child/young person

**For a child:**

A child aged under 16 and anyone under this age who is admitted to one of the adult wards should have their legal rights under section 132 explained to them in the presence of their parent(s) (or others with parental responsibility) who will also be given a copy of the appropriate rights form.

**For a young person:**

A young person is a person aged 16–17 and the usual procedure with regard to reading a person their legal rights under this procedure should apply. However, consideration should be given to completing this in the presence of their parent(s), if the patient agrees.

**Confidentiality and sharing information in relation to a child/young person:**

As with adults, children and young people have a right to confidentiality. Where children are competent, and young people have the capacity to make decisions about the use and disclosure of information they have provided in confidence, their views should be respected. (see section 19.14 of the Code of Practice 2015).

However, as with adults, in certain circumstances confidential information may be disclosed without the child or young person’s consent, e.g. if there is reasonable cause to believe that the child or young person is suffering, or is at risk of suffering, significant harm. Practitioners should be familiar with the Department of Health’s Information Sharing: Guidance for Practitioners and Managers 2008, which includes guidance on assessing a child or young person’s ability to make decisions about sharing information.

The same principles of confidentiality apply if a child who is competent or a young person who has capacity to make a decision regarding the information does not wish their parent (or others with parental responsibility) to be
involved in decision making about their care and treatment. Their decision should be respected unless the disclosure can be justified, e.g. if there is cause to suspect that the child or young person is suffering or is likely to suffer serious harm. Practitioners should encourage the child or young person to involve their parents (unless it is considered to do so would not be in the best interests of the child or young person). They should also be proactive in discussing with the child or young person the consequences of their parents not being involved. (see section 19.15 of the Code of Practice 2015)

Where a child or young person does not wish their parents to be involved, every effort should be made to understand the child or young person’s reasons with a view to establishing whether the child or young person’s concerns can be addressed.

For further details on assessing a young person’s capacity and a child’s competence to make decisions, staff should refer to section 19.24-19.43 of the Code of Practice 2015).

5.15 **Recording the reading of rights to a patient**

- An entry is to be made in the patient’s clinical records to the effect that an oral and written explanation has been given with an indication of the patient’s level of comprehension;
- Form 14a is to be completed and forwarded to the Mental Health Act Office indicating if the patient had the capacity to understand their legal rights or not;
- If the patient did not understand, all further attempts will be recorded onto the form 14b. Once a patient initially lacking capacity has understood their rights, a further form 14a will be completed and forwarded to the Mental Health Act Office. Staff will then continue to record on the form 14b the on-going explanation to the patient of their legal rights.
- If at the time of admission the patient is clearly lacking the capacity to understand all or any of the oral and written information regarding their detention, this is to be recorded along with a date for when it will be repeated.
- If a patient continues to lack the capacity to understand all or any of the verbal and written information regarding this detention a record of this should be made within the patient’s records via the Trust’s MCA1 Form.
- The reading of rights should be undertaken to reflect the individual needs of the patient but it is recommended that, as a minimum, staff should adhere to the guidance as detailed below:

<table>
<thead>
<tr>
<th>Section</th>
<th>Initial Frequency</th>
<th>Ongoing frequency</th>
<th>Who By</th>
</tr>
</thead>
<tbody>
<tr>
<td>Section 2</td>
<td>At the time of the section being applied then twice weekly for the first two weeks of</td>
<td>Weekly for the remaining period of detention.</td>
<td>Named Nurse or other nominated Registered Clinical Staff.</td>
</tr>
<tr>
<td>Section</td>
<td>Initial Frequency</td>
<td>Ongoing frequency</td>
<td>Who By</td>
</tr>
<tr>
<td>--------------------------</td>
<td>-------------------</td>
<td>-------------------</td>
<td>--------------------------------------------</td>
</tr>
<tr>
<td></td>
<td>detention.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Section 3</td>
<td>At the time of the section being applied then once a week for the first month of detention.</td>
<td>Monthly for the remaining period of detention.</td>
<td>Named Nurse, Care Co-ordinator or other nominated Registered Clinical Staff.</td>
</tr>
<tr>
<td>Section 37</td>
<td>At the time of the section being applied then once a week for the first month of detention.</td>
<td>Monthly for the remaining period of detention.</td>
<td>Named Nurse, Care Co-ordinator or other nominated Registered Clinical Staff.</td>
</tr>
<tr>
<td>Community Treatment Order</td>
<td>At the time of the section being applied then once a week for the first month of detention.</td>
<td>To reflect the individual needs of the patient</td>
<td>Care Co-ordinator.</td>
</tr>
</tbody>
</table>

The patient MUST also have their legal rights explained to them if their period of detention is renewed. This is to be recorded on form 14c, which should then be forwarded to the Mental Health Act Office.

These minimum requirements do not prevent a member of the clinical team from using their professional judgement to decide how frequently individual patients legal rights have to be explained to them.

For patients who have a good understanding of their rights, it may not be necessary to renew their rights at such frequent intervals.

For any subsequent explanation of legal rights under section 132, staff should document this on form 14b which is to be held in the clinical records.

### 6. TRAINING IMPLICATIONS

<table>
<thead>
<tr>
<th>Staff groups requiring training</th>
<th>How often should this be undertaken</th>
<th>Length of training</th>
<th>Delivery method</th>
<th>Training delivered by whom</th>
<th>Where are the records of attendance held?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Consultant Psychiatrists</td>
<td>Once when the revised policy is launched</td>
<td>n/a</td>
<td>New policy to be presented at the Consultants</td>
<td>Medical Director</td>
<td>Consultant PDR/Appraisal/Training Records</td>
</tr>
<tr>
<td>Staff groups requiring training</td>
<td>How often should this be undertaken</td>
<td>Length of training</td>
<td>Delivery method</td>
<td>Training delivered by whom</td>
<td>Where are the records of attendance held?</td>
</tr>
<tr>
<td>---------------------------------</td>
<td>-------------------------------------</td>
<td>-------------------</td>
<td>----------------</td>
<td>---------------------------</td>
<td>-----------------------------------------</td>
</tr>
<tr>
<td>Registered clinical staff (across inpatient and community services)</td>
<td>Once when the revised policy is launched</td>
<td>n/a</td>
<td>Explanation of patients legal rights under section 132 is included in the Trust Mental Health Act training</td>
<td>Modern Matrons/Service Managers Training and Development Department</td>
<td>Staff training attendance records held at Ward level Electronic Staff Record system (ESR)</td>
</tr>
</tbody>
</table>

### 7. MONITORING ARRANGEMENTS

<table>
<thead>
<tr>
<th>Area for monitoring</th>
<th>How</th>
<th>Who by</th>
<th>Frequency</th>
<th>Reported to</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. All detained patients to have their legal rights explained to them at the time of their detention</td>
<td>Audit of the forms 14a</td>
<td>MHA office</td>
<td>Compliance Audit twice per year with results and action plans developed</td>
<td>The relevant local MH legislation monitoring group Data will be forwarded, by exception, to the Mental Health Legislation Committee (As above)</td>
</tr>
<tr>
<td>2. All patients who have their period of detention renewed will be given an explanation of their legal rights</td>
<td>Audit of the form 14c</td>
<td>MHA office</td>
<td>(As above)</td>
<td>(As above)</td>
</tr>
<tr>
<td>Area for monitoring</td>
<td>How</td>
<td>Who by</td>
<td>Frequency</td>
<td>Reported to</td>
</tr>
<tr>
<td>---------------------</td>
<td>---------------------------------------</td>
<td>-------------------</td>
<td>--------------</td>
<td>-------------</td>
</tr>
<tr>
<td>3. That all detained patients receive an on-going explanation of their legal rights in line with the standards which are stated in this procedure</td>
<td>Audit of the form 14b</td>
<td>MHA office</td>
<td>(As above)</td>
<td>(As above)</td>
</tr>
<tr>
<td>4. Feedback from any monitoring visits by the CQC which specifically relates to section 132 compliance</td>
<td>Written report which is issued following a visit</td>
<td>Care Group Director</td>
<td>Following a visit. (As above)</td>
<td>Visits are yearly but not all areas are visited each time</td>
</tr>
</tbody>
</table>

### 8 EQUALITY IMPACT ASSESSMENT SCREENING

The completed Equality Impact Assessment for this Policy has been published on this policy’s RDaSH Policy webpage.

#### 8.1 Privacy, Dignity and Respect

The NHS Constitution states that all patients should feel that their privacy and dignity are respected while they are in hospital. “High Quality Care for All (2008)”, Lord Darzi’s review of the NHS, identifies the need to organise care around the individual, ‘*not just clinically but in terms of dignity and respect*’.

As a consequence the Trust is required to articulate its intent to deliver care with privacy and dignity that treats all service users with respect. Therefore, all procedural documents will be considered, if relevant, to reflect the requirement to treat everyone with privacy, dignity and respect, (when appropriate this should also include how same sex accommodation is provided).

<table>
<thead>
<tr>
<th>Indicate how this will be met</th>
</tr>
</thead>
<tbody>
<tr>
<td>No additional requirements have been identified with regards to the privacy, dignity and respect of service users in relation to this policy.</td>
</tr>
</tbody>
</table>
8.2 Mental Capacity Act

Central to any aspect of care delivered to adults and young people aged 16 years or over will be the consideration of the individual's capacity to participate in the decision-making process. Consequently, no intervention should be carried out without either the individual's informed consent, or the powers included in a legal framework, or by order of the Court.

Therefore the Trust is required to make sure that all staff working with individuals who use our service are familiar with the provisions within the Mental Capacity Act 2005. For this reason all procedural documents will be considered, if relevant to reflect the provisions of the Mental Capacity Act 2005 to ensure that the interests of an individual whose capacity is in question can continue to make as many decisions for themselves as possible.

<table>
<thead>
<tr>
<th>Indicate how this will be achieved</th>
</tr>
</thead>
<tbody>
<tr>
<td>All individuals involved in the implementation of this policy should do so in accordance with the Guiding Principles of the Mental Capacity Act 2005 (Section 1).</td>
</tr>
</tbody>
</table>

9. LINKS TO ANY ASSOCIATED DOCUMENTS

Trust Policies:

Policy and Procedure relating to the handling of formal complaints – General policies.

Policy for the development of information for service users - General policies.

Procedure for the discharge of a service user by their nearest relative - Clinical policies, mental health legislation.

Appointment of a person to act as nearest relative in the absence of one defined under the Mental Health Act – Clinical policies, mental health legislation.

Admission of minor or young adult – Clinical policies.

Policy for clinical record keeping standards and clinical record management – Clinical Policies.

Policy for the provision of access to and use of interpreters – Clinical policies.

Care programme approach policy and procedure – Clinical policies.

Procedure for the access to and use of interpreters – Clinical policies.

10. REFERENCES


11. APPENDICES

(none)