Procedure for Clinical Staff on the use of Section 62 Mental Health Act 1983

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<td>Mental Health Act Manager</td>
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1. **INTRODUCTION**

Part 4 of the Mental Health Act 1983 (MHA 1983) gives powers for patients detained under certain sections of the MHA 1983 to be treated either with or without their consent.

These powers are outlined in Sections 56-64 of the MHA 1983, and within these sections it is recognised that there may be circumstances when it is necessary for non-consenting patients to be treated urgently which means it is not possible, to comply with the requirements for requesting a Second Opinion Appointed Doctor (SOAD). In these urgent situations it is Section 62 of the MHA 1983 which allows for the administration of certain treatment to be given to detained patients on long term sections under specific circumstances, which are detailed in the policy.

Informal patients and those detained under Section 4, 5[2], 5[4], 38, 135[1], 136 or Guardianship are not covered by the powers to treat under section 62. In the event that urgent treatment needs administering to any patients who fall outside the criteria for treatment under section 62 the treatment must be justified under either common law or the Mental Capacity Act 2005.

2. **PURPOSE**

The purpose of this guidance is to:

- Provide operational guidance to clinical staff in the provision of urgent treatment to detained patients, in compliance with the MHA 1983;
- Outline the definition of urgent treatment under the MHA 1983;
- Outline which treatment can be administered to detained patients under the powers of section 62.

3. **SCOPE**

This guidance applies to all clinical staff employed within inpatient Care Group settings, who may during the course of their work facilitate urgent treatment under Section 62 to detained patients in their care.

4. **RESPONSIBILITIES, ACCOUNTABILITIES AND DUTIES**

4.1 **Responsible Clinician**

Prior to any treatment being administered under the powers of a section 62 the Responsible Clinician must:

- Be satisfied that the patient is legally detained under an appropriate Section of the MHA 1983, which allows for the administration of treatment under section 62;
- Comply with the legal requirements of section 62 as laid out in the MHA 1983;
- Take full responsibility for any treatment which is prescribed under section 62;
- Complete the Section 62 Monitoring Form (see Appendix 1/Appendix 2);
- Where appropriate, complete the SOAD application form (see CQC portal).

4.2 **Clinical Staff**

Prior to administering any treatment which has been prescribed using the powers of section 62 clinical staff must:

- Adhere to this guidance;
• Be satisfied that all relevant documentation is in place;
• Seek advice from their line manager prior to administering the treatment if they have any concerns about the use of section 62 to administer the prescribed treatment;
• Report any breaches that they become aware of in this policy.

4.3 Mental Health Act Office

Within each of the Trust localities where inpatient services are provided there is a Mental Health Act Office (Doncaster, Rotherham and North Lincolnshire). In relation to this guidance the staff working in these offices are responsible for:

• Providing clinical staff with information on where to locate section 62 monitoring forms in the electronic patient record;
• Monitoring the initial and on-going use of the section 62;
• Co-ordinating requests for a SOAD from the Care Quality Commission.

5. PROCEDURE/IMPLEMENTATION

5.1 Definition of Urgent Treatment

The Code of Practice 2015 Chapter 25 25.37 define urgent treatment as treatment which is:

• Immediately necessary to save the patient’s life; or
• Prevent a serious deterioration of the patient’s condition, and the treatment does not have unfavourable physical or psychological consequences which cannot be reversed;
• alleviate serious suffering by the patient, and the treatment does not have unfavourable physical or psychological consequences which cannot be reversed and does not entail significant physical hazard; or
• prevent patients from behaving violently, or being a danger to themselves or others and the treatment represents the minimum interference necessary for that purpose, does not have unfavourable physical or psychological consequences which cannot be reversed and does not entail physical hazard.

5.2 Treatment that can be given under section 62

• ECT treatment [normally up to 2 treatments] if the first 2 conditions above apply (see 5.1).

Normally no more than two ECT treatments can be given under section 62, and following this you must either have the patients consent, or request an assessment by a SOAD, and they will complete the appropriate form (T4, T5 or T6). However it is recognised that if it is an extended Bank Holiday period, or there is to be delay in the attendance of the SOAD it may not be in the patient’s best interest to interrupt treatment so in these circumstances more than two ECT treatments may need to be administered under section 62.

• Any other treatment which is felt to be of urgent necessity and which meets the definition as detailed above in section 5.1 of this policy

NB: Please remember that a patient, who has capacity to consent to ECT but refuses it, cannot be given ECT.

5.3 Treatment where consent is given then withdrawn

When a patient has previously consented to treatment [medication after 3 months], and then
withdraws their consent, treatment may be continued if the approved clinician considers that the withdrawal of the treatment would cause serious suffering to the patient.

In these circumstances, a SOAD assessment must be sought swiftly, to authorise continued treatment in the longer term. The clinician in charge of the treatment in question has the personal responsibility of ensuring that a request is made to the CQC for a SOAD visit.

5.4 Action to be taken to administer treatment under Section 62

It is the responsibility of the patients Responsible Clinician to make a decision to treat a patient urgently under Section 62 of the MHA 1983. However, there may be extreme cases where a decision has to be made by the Approved Clinician/Consultant on-call.

Wherever possible, the patients Responsible Clinician will discuss the proposed treatment with others involved with the patient’s care and:

- The decision to treat using the powers under section 62 will be recorded in the electronic patient record, with details of the proposed treatment and why it is to be given under Section 62;
- Completion of the section 62 form must be undertaken by the Responsible Clinician or out of hours by the Approved Clinician/Consultant on-call in the electronic patient record (Appendix 1 for an example);
  - However if the decision is taken out of hours by the Approved Clinician/Consultant on-call to treat using the powers under section 62 via a verbal instruction, nursing staff should clearly document the verbal instruction from the Approved Clinician/Consultant on-call on the appropriate form in the electronic patient record (Appendix 2 for an example)
  - Treatment should then be administered to the patient
  - The section 62 form and the verbal instruction form can then be completed the next working day by the Approved Clinician/Consultant on-call who gave the verbal instruction in the electronic patient record.
- If the patient is receiving ECT a printed copy of the section 62 form may be attached to the clinical records which will accompany the patient to the ECT department, but this can also be viewed in the electronic patient record;
- If the patient is receiving on-going medication under the section 62 a copy of the form may be attached to the patient’s drug card, but this can also be viewed in the electronic patient record;
- The SOAD from the Care Quality Commission will need to review this section 62 in the electronic patient record;
- Once a T3, T4, T5 or T6 form has been completed, a copy needs to be attached to the ECT records or medication prescription chart, and the original sent to the Mental Health Act Office.

5.5 Advance decisions and treatment under Section 62

Where treatment is considered to be immediately necessary and the requirements of section 5.1 within this policy are met, treatment can be given, even if, it conflicts with an advance decision, or the decision of someone who has the authority under the MCA to refuse it on behalf of the patient. However, if this is the case:

- the Responsible Clinician must document in the electronic patient record why the decision has been made to treat irrespective of the patient’s expressed advance decision and an explanation as to why their advance decision cannot be complied with is to be given to the patient prior to the treatment being administered. If this is not possible
for any reason, the explanation is to be given as soon as is clinically indicated following treatment;

- A record of this discussion is to be made by the Responsible Clinician in the electronic patient record.

6. **TRAINING IMPLICATIONS**

No specific training requirements have been identified in respect of this guidance. Mental Health Act legislation is covered as part of the local induction for new staff, and the Trust also has in place a programme of training on the Mental Health Act which covers the care and treatment of detained patients.

7. **MONITORING ARRANGEMENTS**

<table>
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<tr>
<th>Area for monitoring</th>
<th>How</th>
<th>Who by</th>
<th>Reported to</th>
<th>Frequency</th>
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<tbody>
<tr>
<td>Compliance with the standards set out in this guidance</td>
<td>Audit of the completed section 62 forms</td>
<td>Modern Matrons</td>
<td>The local Mental Health Legislation Monitoring Groups who will report by exception to the Trust Mental Health Legislation Sub Committee</td>
<td>Audit is on-going as the section 62 forms are completed</td>
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8. **EQUALITY IMPACT ASSESSMENT**

The completed Equality Impact Assessment for this Policy has been published on this Policy’s webpage on the Trust website.

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).

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<th>Indicate how this will be met</th>
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<tr>
<td>There are no additional requirements identified in relation to privacy, dignity and respect</td>
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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 individuals capacity to participate in the decision making process. Consequently, no intervention should be carried out without either the individuals’ 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.

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<th>Indicate how this will be met</th>
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<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>
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9. LINKS TO OTHER DOCUMENTS

- Trust Rapid Tranquilisation policy and guidelines (pharmacological management of violence) – Clinical policies, prescribing & medicines management section;
- Trust policy for the safe and secure handling of medicines – Clinical Policies, prescribing & medicines management section;
- Electro-convulsive Therapy clinical guidelines - Clinical polices, Care, Treatment & Assessment section;
- Clinical risk assessment and management policy – Clinical policies, Care, Treatment & Assessment section;
- Mental Capacity Act 2005 Policy - Clinical polices, Mental Health Legislation section

10. REFERENCES


11. APPENDICES

Appendix 1 – Copy of Section 62 Form
Appendix 2 – Copy of the Verbal Instruction of Section 62 Form
Urgent treatment under Section 62 of the Mental Health Act 1983
Please indicate if the Section 62 for ECT [ ] or Medication [ ]
(tick whichever applies)

I, the Responsible Clinician/Approved Clinician
(Full Name and Address of RC/AC)

In my opinion:
(Full name and address of patient)

(delete the statement which does not apply)
(a) is capable of understanding the nature, purpose and likely effects of the treatment outlined below and has refused consent.
OR
(b) is not capable of understanding the nature, purpose and likely effects of the treatment outlined below.

Is Section 62 being used for (tick whichever applies):
A. One-off treatment [ ]
OR
B. Plan of treatment [ ]

A. One-off treatment
(Detail treatment authorised)

In my opinion this treatment is immediately necessary to (tick whichever applies):

a) save the patient’s life [ ]
b) prevent a serious deterioration of the patient’s condition and the treatment does not have unfavourable physical or psychological consequences which cannot be reversed [ ]
c) Alleviate serious suffering by the patient, and the treatment does not have unfavourable physical or psychological consequences which cannot be reversed and does not entail significant physical hazard or [ ]
     (not applicable for ECT or medication administered as part of ECT)
d) prevent patients behaving violently or being a danger to himself or others, and the treatment represents the minimum interference necessary for that purpose, does not have unfavourable physical or psychological consequences which cannot be reversed and does not entail significant physical harm [ ]
     (not applicable for ECT or medication administered as part of ECT)

B. Plan of treatment
I certify that discontinuation of current treatment and/or a plan of treatment pending compliance with Section 57 would cause serious suffering to the patient.

Has a request been made for a second opinion? YES/NO
Date the request was made ........................................
Length of time treatment given ...................................

Signed: Date:
Verbal Instruction for the administration of urgent treatment under Section 62 of the Mental Health Act 1983
(To be used out of hours)

I the Qualified Mental Health/Learning Disability Nurse
(Full Name of Nurse)

Have received a verbal instruction over the telephone from:
(Full name and address of RC/AC)

To allow for the administration of Medication for:
(Full name and address of patient)

Is Section 62 being used for (tick whichever applies):

A. One-off treatment [ ]

B. One-off treatment
(Detail treatment authorised)

In the opinion of the RC/AC this treatment is immediately necessary to (tick whichever applies):

a) save the patient’s life [ ]

b) prevent a serious deterioration of the patient’s condition, and the treatment does not have unfavourable physical or psychological consequences which cannot be reversed [ ]

c) alleviate serious suffering by the patient, and the treatment does not have unfavourable physical or psychological consequences which cannot be reversed and does not entail significant physical hazard, or [ ]

(d) prevent patients behaving violently or being a danger to themselves or others, and the treatment represents the minimum interference necessary for that purpose, does not have unfavourable physical or psychological consequences which cannot be reversed and does not entail significant physical hazard [ ]

Signed: Date:
(by Nurse receiving the verbal instruction)

Nurse to agree with the RC/AC when they will come and sign this form i.e. Next Day or Next Working Day (Please indicate which)

Signed: Date:
(by the RC/AC who approved the verbal instruction, and on the date as agreed above)