

# Policy Document

Reference: C67

## Mental Health Act 1983 as amended by the Mental Health Act 2007

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<b>Executive Lead:</b>	Chief Nurse

### Version Control Schedule

Version	Issue Date	Comments
1	January 2020	New Policy
2	May 2021	Mental Health Lead changed to Matron of Mental Health & Learning Disability Law change December 2020 for accepting electronic paperwork with electronic signature Update to Code of Practice Update to Detained Patient Checklist New Appendix added for Scrutiny checklist for Site Matrons New Appendix added for Accepting Mental Health Section papers

### Statement on Trust Policies

The latest version of 'Statement on Trust Policies' applies to this policy and can be accessed [here](#)

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## **1. INTRODUCTION**

- 1.1. The Mental Health Act 1983 as amended by the Mental Health Act 2007 (MHA) provides the legal framework by which individuals may be detained in order that they may receive care and treatment appropriate to address the needs of their mental disorder.
- 1.2. The Mental Health (Hospital, Guardianship and Treatment) (England) Regulations 2008 as amended by the mental health (Hospital Guardianship and Treatment) (England) (Amendment) Regulations 2020, set out the prescribed forms to be used in connection with the Act in England.
- 1.3. A Mental Health Act Assessment is Co-ordinated by an Approved Mental Health Practitioner (AMHP) who works within a Local Authority and sits within Social Care services. The Local Authority has a responsibility to provide a 24 hour AMPH service to carry out a variety of functions under the Mental Health Act.
- 1.4. The University Hospitals of North Midlands NHS Trust (UHNM) has a statutory obligation to ensure that its patients, who become subject to the Mental Health Act 1983 (MHA): as amended by the Mental Health Act 2007, are treated lawfully.
- 1.5. The main purpose of the MHA is to allow compulsory action to be taken, where necessary, to make sure that people with mental health disorders get the care and treatment they need for their own health or safety, or for the protection of other people. The MHA sets out criteria that must be met before compulsory measures can be taken, along with protections and safeguards for patients.
- 1.6. Part 2 of the Act sets out civil procedures under which people can be detained in hospital for the assessment and treatment of a mental disorder. Detention under this process normally requires a formal application by either an Approved Mental Health Professional (AMHP) or a patient's nearest relative. An application is founded on two medical recommendations made by two qualified medical practitioners, one of whom must be Section 12(2) approved for the purpose under the Act.
- 1.7. The registration process for health and adult social care requires any hospital using the Mental Health Act 1983 to detain patients, must be registered to do so with the Care Quality Commission. The Act's Code of Practice (2015) identifies standards that the organisation should meet when they perform their responsibilities under the Act.
- 1.8. The Health and Social Care Act regulations provide that a hospital must be specifically registered to provide assessment or treatment of mental disorders where the patient concerned is detained in that hospital under any power of the MHA 1983, other than the holding powers under sections 135 or 136. Such registration is therefore required if the general hospital itself detains patients, whether under MHA 1983 section 5 holding powers or the more substantial detention powers of MHA 1983 sections 2 or 3, and provides assessment or treatment of their mental disorder.
- 1.9. Many general hospitals use the powers of the MHA to detain a small but significant number of patients. The Care Quality Commission (CQC) recognise that some in-patients at general hospitals may require detention under the Act such as short term holding powers or longer term detention for assessment and/or treatment.

## **2. SCOPE**

- 2.1 Adherence to the Mental Health Act 1983, Code of Practice (2015) and related case law will be supported by the UHNM through robust arrangements as outlined in this policy.
- 2.2 This policy covers the role of the UHNM and the staff employed within it when caring for patients under the MHA, and the management and documentation related to their detention.

### 2.3 **Guiding principles of the MHA**

In making any decisions under the MHA the guiding principles should be considered. These are laid out in Chapter 1 of the Mental Health Act Code of Practice (2015) and can be summarised as follows:

**Least Restrictive Practice and Maximising Independence** - Where it is possible to treat a patient safely and lawfully without detaining them under the Act, the patient should not be detained. Wherever possible a patient's independence should be encouraged and supported with a focus on promoting recovery wherever possible.

**Empowerment and Involvement** - Patients should be fully involved in decisions about care, support and treatment. The views of families, carers and others, if appropriate, should be fully considered when taking decisions. Where decisions are taken which are contradictory to views expressed, professionals should explain the reasons for this.

**Respect and Dignity** - Patients should be fully involved in decisions about care, support and treatment. The views of families, carers and others, if appropriate, should be fully considered when taking decisions. Where decisions are taken which are contradictory to views expressed, professionals should explain the reasons for this.

**Purpose and Effectiveness** - Decisions about care and treatment should be appropriate to the patient, with clear therapeutic aims, promote recovery and should be performed to current national guidelines and/or current, available best practice guidelines.

**Efficiency and Equity** - Providers, commissioners and other relevant organisations should work together to ensure that the quality of commissioning and provision of mental healthcare services are of high quality and are given equal priority to physical health and social care services. All relevant services should work together to facilitate timely, safe and supportive discharge from detention.

2.4 Decisions made under the MHA must be supported and informed by the clinical assessment and care planning process; detention under the Mental Health Act is not a substitute for following these processes.

2.5 All staff should ensure that their decisions made and actions taken in respect of patients subject to the MHA follow procedures laid out in the legislation. All decisions made and actions taken should be in accordance with the Code of Practice (2015) and the Reference Guide (2015) unless there are robustly justified and documented reasons for deviation.

### 3. **DEFINITIONS/ABBREVIATIONS**

**Mental Health Act 1983 amended 2007 (the Act)** – The legislation governing all aspects of compulsory admission to hospital, as well as the treatment, welfare and after care of detained patients. It provides for mentally disordered persons who need to be detained in hospital in the interests of their health, their own safety or the safety of other persons. Compulsory admission to hospital is often referred to as 'Sectioning'. The Act sets out when and how a person can be Sectioned and ensures that the rights of those who are detained are protected.

**Mental Health Act 1983 amended 2007 Code of Practice (the Code)** – The Code required within the Mental Health Act that defines good practice for those exercising powers and functions under the Mental Health Act.

**Hospital Managers** – The term Hospital Managers does not mean the management team of the hospital, but the Trust as an organisation. The Trust delegates its responsibility under this part of the Act to the Mental Health Act Administration team

## **The MCA**

Mental Capacity Act 2005 and MCA Code of Practice (2007)

## **CQC**

Care Quality Commission

**Responsible Clinician (RC)** – The registered medical practitioner in charge of the treatment of a detained patient and who is not professionally accountable for that treatment to any other doctor.

**Approved Mental Health Professional (AMHP)** – A health or social care professional that has undertaken additional recognised training and is approved and authorised by the relevant Local Authority. All professionals who are AMHP's have to inform and register with their relevant professional bodies. The Approved Mental Health Professional's role is to carry out legal functions in relation to the Act.

**Clinical Staff** – A member of the clinical team who is competent to receive admission documents and complete the scrutiny checklists to ensure the documents are correct. Site matrons take on this role within UHNM. Nurses and Mental Health Professionals and Assistant Practitioners must be either: i) six months' post-qualification to undertake this function; or ii) must have at least four instances of receipt and scrutiny reviewed by a senior manager; and this is discussed, confirmed and recorded in supervision.

**Patient** – The term used in the Act and Code of Practice to define a person who is, or is liable to be, detained and receiving health care.

**Section 15** – The Section of the Act that contains provisions under which documents found to be incorrect, defective or incomplete can be rectified after they have been acted upon.

## **UHNM**

University Hospital of North Midlands NHS Trust

## **NSCHT**

North Staffordshire Combined Healthcare NHS Trust

## **MPFT**

Midlands Partnership NHS Foundation Trust

## **MHLT**

Mental Health Liaison Team Royal Stoke Site (UHNM)

## **LP**

Liaison Psychiatry Team County Hospital

## **4. ROLES AND RESPONSIBILITIES**

4.1 **Executive Directors of the Trust Board** - for the purpose of the Act are the "Hospital Managers" and have important statutory powers, responsibilities and duties concerning detained patients. The Chief Nurse/Medical Director is the Executive Lead for the UHNM.

The following functions and responsibilities are delegated as follows:

1. To ensure that the grounds for detaining patients are valid and that all relevant documents under the Act are in order.
2. To ensure that those professionals who are formally delegated to receive documents and those who are required to scrutinise them have knowledge of the Act by undertaking training.
3. To ensure that each patient's detention under the Act is reviewed.
4. To ensure that Section 132 patients' rights under the Act are upheld and any patient who wishes to apply to a Mental Health Tribunal is given the necessary assistance to do so.

5. To authorise the Section 19 transfer of detained patients to the care of another hospital and "Hospital Managers"

4.2 **Local Authority-** A Mental Health Act Assessment is Co-ordinated by an Approved Mental Health Professional who works within the relevant Local Authority within Social care services. Each Local Authority must make sure an AMHP service is provided, and they are responsible for the approval and registrations of AMHPs. Local Authorities are responsible for assuring that enough AMHPs are available to carry out their roles under the MHA, including assessing patients to decide whether an application for detention should be made. They should have arrangements in place to provide a 24 hour service that can respond to a patients needs in a timely way.

4.3 **Site Matrons are responsible for:**

1. Discharging the delegated power of scrutinising and receiving section papers on behalf of the Hospital Managers. Electronic section papers can be sent by the AMHP from a secure email to a secure trust email: [REDACTED]. Copies can be printed out for the site matrons to hold as evidence of sectioned patients in the hospital, and a copy can be placed in the Patient File but the original forms need to be kept within the email inbox to be forwarded to the relevant Mental Health Act Law Team when the patient is moved to a different Trust.
2. Site Matron / manager will carry out an initial scrutiny of the papers using the guidance in the Scrutiny Checklist (Appendix 2) and List of statutory forms required (Appendix 4). They will then complete Form H3. This form also needs to be uploaded to the UHNM Paperwork email inbox so all papers are kept together. Note: statutory form H3 is not required to be completed for detention under section 5(2) or 5(4).
3. Ensuring that all detaining documents relating to the section are received fully completed on behalf of the UHNM hospital managers. If the application for detention has been made by an Approved Mental Health Professional (AMHP) the Site Matron should request the AMHP remains while the papers are checked for accuracy.
4. Ensure that Section papers are forwarded to the identified Mental Health Law Teams secure email of the relevant Mental Health Hospital.
5. To ensure that Hospital Managers and the Matron for Mental Health & Learning Disability are made aware of all detained patients at the UHNM under the Mental Health Act and to include this information on the daily site reports at the UHNM.
6. To authorise the transfer of detained patients under Section 19 to another hospital using the correct forms under the Act and completing Part 1 of Form H4.
7. CTO (record of recall from a Community Treatment Order) - following receipt of the section papers and completion of the relevant statutory form, immediately send the originals to the Mental Health Act Administrator at the relevant Trust.

4.4 **Matron for Mental Health & Learning Disability or nominated deputy is responsible for:**

1. Ensuring that the patient's rights under the Act are upheld and any patient who wishes to apply to a Mental Health Tribunal is given the necessary assistance and a referral to an Independent Mental Health Advocate (IMHA) will be completed if required.
2. To complete an assurance check of any patient detained to the UHNM to scrutinise the photocopies or original section papers dependant on if the patient has been detained to UHNM or has been transferred under Section 17 Leave.
3. To ensure that the ward clinical team are aware that the patient has been detained under the MHA and to support the care plan for that patient who provides a framework for assessment and/or treatment of that patient's mental disorder.

4.5 **Nurse in charge of the Ward** - need to ensure that the patient's detention under the MHA is communicated at handover and to ensure that the team have completed the Mental Health Checklist and inform the Matron for Mental Health & Learning Disability. The Matron for Mental Health & Learning Disability will then support the in-patient team or refer to an appropriate mental health professional within the UHNM to do so.

Form H1 (for Section 5(2)). Note: Nurse in charge of the ward where the patient is detained should complete and sign part 2 of the form as receipt and acceptance of the holding power

- 4.6 **Responsible Clinician (RC) / Consultant Psychiatrist** - has the overall responsibility for the assessment, care, treatment and, review of the patient's detention specifically related to their mental disorder whilst they remain in the care of the UHNM. The RC is responsible for deciding, if the patient can be granted Section 17 leave, treatment of mental disorder, before a detention expires, whether the current period of detention should be renewed. Only the patient's RC can discharge the patient from detention under the MHA. The registered RC should also give certain information to the nearest relative around the patient's care.

For the Royal Stoke Site, the Mental Health Liaison Team Responsible Clinician (RC) will oversee the assessment and treatment of the patient's mental health disorder and must work closely with the consultant physician/surgeon to ensure that both physical and mental health needs are being addressed.

For County Hospital Staffordshire the RC will also oversee the assessment and treatment of a patient and the RC will be identified by the following:

1. Where a patient has originally been detained to a bed within MPFT Trust, the current RC will remain responsible for that patient's care whilst they are on leave to County Hospital.
2. Patients detained directly to County Hospital will be the responsibility of the Community RC for MPFT for the local team who made the recommendations and application for detention.
3. Where the detention has been completed 'out of hours' by on-call medical staff, and the patient is known to services, the patient will be the responsibility of the RC responsible for that patient's care in the community for MPFT.
4. Where the detention has been completed 'out of hours' by on-call medical staff, and the patient is not known to services, the patient will be the responsibility of the relevant geographically and age appropriate consultant for MPFT.
5. If the patient is transferred to RSUH from County the RC would continue to be the consultant for MPFT.

- 4.7 **Consultant in charge of care at UHNM** has the overall responsibility for the assessment, care, treatment, review of the patient's physical health needs whilst they remain in the care of the UHNM.

- Need to ensure that the patient's detention under the MHA is communicated at handover
- To complete a consultant to psychiatrist review over the phone, on the ward the patient has come from
- Be aware of the patients risks
- Be aware of current Psychiatric treatment plan
- Liaise with Psychiatrist regarding any capacity concerns regarding medical treatment
- Liaise with Psychiatrist of receiving ward to organise discharge
- Ensure a copy of discharge summary is sent with patient

- 4.8 **North Staffordshire Combined Healthcare NHS Trust (NSCHT) Mental Health Act administrators** - will provide the secondary scrutiny and storage of original statutory Mental Health Act paperwork for both RSUH and County, unless the patient at County is accepted for a bed within MPFT (once papers have been accepted on Form H3 by Site Matron) – the paperwork can be hand delivered or sent electronically (if received electronically) to:

- Harplands Hospital reception for the attention of the Mental Health Law Team.
- Or sent electronically by secure email to: [mentalhealthlawteam@combined.nhs.uk](mailto:mentalhealthlawteam@combined.nhs.uk)
- MPFT electronic secure email: [MHApapersStGeorges@mpft.nhs.uk](mailto:MHApapersStGeorges@mpft.nhs.uk)

Following the acceptance and storage an authorised copy will be sent to the treating ward at the UHNM for filing in the patient's medical notes. The team will provide the in-patient wards, the RC and Matron for Mental Health & Learning Disability with email reminders regarding statutory

reviews and support any request for a hospital managers hearing and mental health act tribunal. When/if the patient's mental health care is being transferred to another care provider the original detention papers will be forwarded to the in-patient area at the UHNM that the patient will be transferred from under Section 19 MHA - this process will be co-ordinated by the Site Matron or a member of staff from the mental health liaison team.

- 4.9 Mental Health Liaison Team Royal Stoke (MHLT)** - If a patient requires a Mental Health Act assessment the MHLT can request this through the Local Authority. The AMPH from the Local Authority will then co-ordinate this by linking in with Section 12 approved doctors. Once a patient at the UHNM has been detained under the Act the AMHP is responsible for sourcing a bed and arranging transfer. If able the MHLT can support to co-ordinate a transfer if the patient is medically fit. If the patient is not medically fit the RC for MHLT will provide specialist mental health input and once the patient is assessed as being medically fit they will then start to support the identification and transfer of a patient to a mental health hospital and bed.
- 4.10 County Hospital (LP)** - The Liaison Psychiatry Team or the ward/team can request a MHA assessment through the Local Authority. The allocated AMHP arranges and co-ordinates the Section 12 (2) doctors. Once a patient has been detained under the MHA it is the AMHPs responsibility to source and facilitate the transfer to a relevant Mental Health bed. Site matrons at County Hospital, or nominated deputy can liaise with the site manager at St Georges Hospital or the site manager at The Harplands Hospital to coordinate a transfer.
- 4.11 Defining the detaining authority** - at the UHNM there may be occasions where a patient is admitted into the Royal Stoke or County Hospital who is already a detained in-patient under the MHA. The original detaining authority would transfer this patient either under Section 17 leave or Section 19 full transfer.
- i. Section 17 or 19 does not apply in the Emergency department where the patient could receive lifesaving treatment. If a patient is admitted into a bed at UHNM then section 17 leave of section 19 full transfer can be requested or completed retrospectively.
  - ii. Section 17 leave – allows a patient detained by another provider service to be admitted to UHNM for care of their physical health, whilst the responsibility for the patient's detention and treatment under the Act remains with the detaining organisation.
  - iii. Section 19 transfers – a patient detained by another provider service is admitted to UHNM for care of their physical health and responsibility for the patient's detention and treatment under the Act is transferred to UHNM.

The following process must be followed by healthcare professionals involved in the care of any patient detained under the MHA and admitted to the UHNM:

- i. Nurse in charge / In-patient staff to complete the UHNM mental health checklist (see appendix 1) and inform site matrons and Matron for Mental Health & Learning Disability of the patient's admission, section details and liaise with the care provider to ensure all relevant copies of MHA documents are filed in the patient's medical records. (see Appendix 2)
- ii. Site matron will add the patient details and section information to the relevant site report for the Royal Stoke and County Hospital.
- iii. The Matron for Mental Health & Learning Disability or nominated deputy will complete an assurance check of any patient detained to the UHNM to scrutinise the section papers, ensure that the clinical team are aware that the patient is been detained under the MHA, to support the care plan whilst an in-patient at the UHNM and liaise with the care provider for any further information.
- iv. The Matron for Mental Health & Learning Disability or nominated deputy will liaise with the original care provider to see if the Act has been enabled to treat the patient against their will for their mental disorder under consent to treatment. If consent to treatment is applicable

then the applicable treatment certificate document under the MHA will be provided to the in-patient area at the UHNM to ensure compliance with the MHA.

**4.12 Detained patient's death** - any person who dies who is subject to a detention of the MHA, the care provider must inform the CQC of the patient's death whilst under section. This will be completed by the Bereavement Team at UHNM and supported by the Mental Health Act administrators at North Staffordshire Combined Healthcare NHS Trust (NSCHT), Midlands Partnership NHS Foundation Trust (MPFT) or Independent Hospital the patient has originally come from.

## **5. ELECTRONIC SUBMISSION OF DETENTION PAPERS**

5.1 The 2020 changes to the 2008 English Regulations of the Mental Health Act enable statutory forms to be served electronically.

5.2 Although Hospital managers are not entitled to refuse acceptance of an otherwise validly made application solely on the grounds of its being electronically completed and conveyed, this does not affect the usual position whereby acceptance is dependent on having the capacity and appropriate facilities for the patients, as well as on the forms being correctly and fully completed.

5.3 In accordance with section 6 of the MHA, an AMHP application is founded on the necessary medical recommendations. As such, it is the responsibility of the AMHP to support their application for detention with two accompanying medical recommendations. It is vital that these three documents are retained as a set and sent securely to the hospital, whether electronically, in hard copy, or a mixture of both.

5.4 Any form submitted via electronic means MUST be in the revised form format implemented 1<sup>st</sup> December 2020. Copies of these forms can be found at <https://www.gov.uk/government/collections/electronic-forms-for-use-under-the-mental-health-act>

5.5 Electronic forms should be considered equivalent in status to paper forms. There should not be disputes over hardcopies being more important or more valid representations of statutory forms.

5.6 In line with paragraph 35.5 of the Code of Practice which states that those acting on the authority of statutory forms should ensure they are in proper form, if concerned about the quality and integrity of an electronically transmitted form, the recipient has the right to request the form be resent in a revised format. Any form submitted electronically from the 1<sup>st</sup> December 2020, MUST be on the revised electronic version- any forms submitted either electronically or by hand after 1<sup>st</sup> February 2021 which are not completed and submitted on the revised electronic version will NOT be valid.

5.7 Electronic signatures on forms have the same meaning as in paragraph 7(2) of the 2000 Electronic Communications Act. This states that an electronic signature is 'so much of anything in electronic form as incorporated into or otherwise logically associated with any electronic communication or electronic data; and purports to be used by the individual creating it to sign'. As such, electronic signatures on electronically submitted statutory forms may be typed name or initials, a scan or photo of a wet signature, or an electronically drawn signature, amongst other options meeting the definition specified above.

5.8 Full guidance on electronic communication of statutory forms can be found at: <https://www.gov.uk/publications/electronic-communication-of-statutory-forms-under-the-mental-health-act/guidance-on-the-electronic-communication-of-statutory-forms-under-the-mental-health-act>

5.9 Secure Email Address for North Staffs Combined Healthcare NHS Trust: [mentalhealthlawteam@combined.nhs.uk](mailto:mentalhealthlawteam@combined.nhs.uk)

- 5.10 Secure Email Address for Midlands Partnership Foundation Trust:  
[MHApapersStGeorges@mpft.nhs.uk](mailto:MHApapersStGeorges@mpft.nhs.uk)

## 6. EDUCATION/TRAINING AND PLAN OF IMPLEMENTATION

All registered practitioners have an individual professional responsibility to keep up to date with the Act and Code of Practice, however the UHNM is an acute general trust so a training plan has been implemented that specifically incorporates the MHA.

Mental Health Training programme for the UHNM:

1. Mental Health Awareness Training to be completed by all clinical staff, allied health professionals and medical staff via ESR e-learning package. This training will be completed on a 3 yearly basis and will be monitored in terms of compliance by the Associate Chief nurse's and deputies at the UHNM. Compliance will be reported to the Mental Health Working Group.
2. Mental Health Law Awareness training will be completed by senior staff nurses including ward managers, matrons, site team matrons and specialist team leads. This training will be available to book onto via ESR and will be completed on a 3 yearly basis to ensure up to date knowledge of the Act and will be monitored in terms of compliance by the divisional lead nurses and deputies at the UHNM. Compliance will be reported to the Mental Health Working Group.
3. Both Mental Health Awareness and Mental Health Law Awareness training will include the manager's responsibilities and delegated responsibility, supporting and up-holding patient's rights under the MHA, the transfer of a patient's care, information and education on the MHA and CQC standards around the MHA.
4. Mental health professionals within the UHNM including the Matron for Mental Health and Learning Disability, CWD mental health nurses and the specialist mental health teams at both sites can also support clinical teams with any additional specialist mental health act training on top of the identified training packages.
5. The Mental Health training programme for the UHNM will have compliance monitored through the UHNM Mental Health Working Group and will be routinely evaluated by participants.

## 7. MONITORING AND REVIEW ARRANGEMENTS

- 7.1 The following statutory requirements are expected for professionals when completing and documenting on hardcopy mental health paperwork:
1. Black ink
  2. Full name of patient
  3. Your full name as the doctor and nurse
  4. No abbreviations.
  5. Any crossings out/errors and amendments must be initialled and dated by the original author of the form.
- 7.2 For H3 and H4 electronic forms completed by Site Matrons an electronic signature is 'so much of anything in electronic form as incorporated into or otherwise logically associated with any electronic communication or electronic data; and purports to be used by the individual creating it to sign'. As such, electronic signatures on electronically submitted statutory forms may be typed name or initials, a scan or photo of a wet signature, or an electronically drawn signature, amongst other options meeting the definition specified above.
- 7.3 Matron for Mental Health & Learning Disability, Clinicians, Matrons, Operational Managers and Ward Managers are all responsible for ensuring that their staff comply with this policy.
- 7.4 All detentions under the MHA will be reported and reviewed as part of the UHNM Mental Health Working Group and the Mental Health Law Governance Meetings chaired by North Staffordshire Combined Healthcare NHS Trust. Both meetings will take place on a two monthly basis.

- 7.5 Any clinical incidents relating to the MHA and MHA documentation will be reported via the Trusts DATIX system and will be reviewed by the Mental Health Datix Meeting chaired by the Nursing Director, Matron for Mental Health and Learning Disability and Senior Nurse for Safeguarding, with all incident reviews and any learning lessons being fed back to the appropriate team, professionals involved and senior managers.
- 7.6 This policy will be reviewed on a three yearly basis or in accordance with any changes in legislation or professional practice.
- 7.7 A register will be kept of patients transferred to UHNM who are sectioned and of patients who detained to UHNM.

## **8. REFERENCES**

1. Mental Health Act 1983 / Amended 2007
2. Mental Health Act Code of Practice (2015)
3. Human Rights Act 1998
4. The Mental Capacity Act 2005 and Code of Practice (2007)
5. Health and Social Care Act
6. 2020 changes to the 2008 English Regulations of the Mental Health Act enable statutory forms to be served electronically.
7. Electronic Communications Act 2000
8. Reference Guide to the Mental Health Act 1983

## **9. APPENDICES**

1. Ward Checklist- Detained Patient at UHNM
2. Scrutiny Checklist & Receiving Section Documents
3. Summary of Mental Health Act (1983) Sections
4. Mental Health Act- Accepting Section Papers Flowchart

**Appendix 1: Ward Checklist - Detained patient at UHNM**

**Checklist – Patients detained or admitted to UHNM under a section of the Mental Health Act**

Patients name & Unit number..... Ward.....

If patient detained whilst an inpatient at UHNM Detention papers to be sent to secure email to site Matrons for receiving Mental Health Act paperwork: [REDACTED]

	Yes / No / N/A	Comments
Inform Site Matron if a patient is placed on a section of the Mental Health Act whilst in your care and advise if paperwork has been emailed to above address or paper copies received.		
Inform Mental Health Liaison / Psychiatric Liaison Team or Crisis team out of hours if a patient is placed on a section 5(2) by a medic whilst in your care as a full Mental Health Act Assessment will need to be arranged.		
Ensure you know what part of the Mental Health Act your patient is being detained under.		
Ensure you know when the section expires and document in patient notes.		
Ensure you make site Matron aware if a patient is admitted to your ward already under a section of the MHA and you have received the relevant paperwork for the provider. This can then be added to the daily report.		
If patient admitted to your ward that is already on a section ensure you have a copy of the section 17 leave form authorising the leave to UHNM. Note: the completion of this form is the responsibility of the referring provider.		
If there is not a copy of the section 17 leave form contact the provider immediately to request completion and notify the Site Matron.		
If your patient has been under a section for more than 3 months this would mean a Consultant Psychiatrist would have assessed the patient's capacity to consent to treatment. This would then mean under the MHA a T2 or T3 form should have been completed and provided on attendance at UHNM accompanied with a copy of the patients current prescription/Medication chart. These forms authorise the prescription and administration of what Mental health treatments healthcare professionals can give to patients with a mental health disorder. Ensure copies of these forms are attached to the patient's new prescription chart for pharmacy scrutiny.		

Inform Kirsty Smith, Janice Johnson & Helen Inwood via E-mail that you have a patient on your ward who is detained under the Mental Health Act – please provide patients name, unit number, type of section, if you have received a S17 leave form and a T2/3 if required.		
[REDACTED]		
If you require further support please contact --- [REDACTED] Matron for Mental health and Learning disability by email or phone [REDACTED]		

Signature of person completing.....

Date of completion.....

Contacts:

- Site Matron – Page via switchboard  
 [REDACTED] Mental Health Liaison Team (Royal Stoke) – [REDACTED]  
 [REDACTED] Liaison Psychiatry / Dementia Liaison (County Hospital) – [REDACTED]  
 [REDACTED] CWD Division – Mental Health Support Nurses - Pager - [REDACTED] or [REDACTED]  
 [REDACTED]

**Appendix 2: Scrutiny Checklist & Receiving Section Documents**

**INITIAL SCRUTINY OF MHA SECTION PAPERS CHECKLIST FOR SITE MATRONS**

Patient Name: \_\_\_\_\_ Ward: \_\_\_\_\_

Date of Section: \_\_\_\_\_ Section: \_\_\_\_\_

Are all the correct Forms present for the section?	
If submitted via electronic means – has the correct version (including email address) been used?	
Is the application made out to the correct admitting hospital?	
Do the medical recommendations specify the correct admitting hospital/ward where appropriate treatment is available (section 3)	
Is the patient's full name and address given on each form?	
All names and addresses correspond on each form	
Are the full names & addresses of the doctors on the medical recommendations	
Is there a date of examination on both medical recommendation	
The date of the signature on the AMHP form is the same as (or after) the date of the signatures on the medical recommendations	
The two medical recommendations have no more than 5 clear days between them (7 days inclusive)	
Is the full name of the Nearest Relative on the AMHP's form,	
Have the appropriate deletions been made?	
Are all of the papers signed and dated (including electronic signature where applicable)?	
Are the papers legally acceptable?	
Is there anything else wrong with the papers? *If yes, please give details	

Signed \_\_\_\_\_ Date: \_\_\_\_\_

<b>Section</b>	<b>Paperwork Needed</b>
<b>2</b>	<b>A1</b> (application by Nearest Relative) <b>or A2</b> (application by Approved Mental Health Professional) <b>A3</b> (joint medical recommendation) <b>or 2 x A4</b> (separate medical recommendations) <b>H3</b> (record of detention in hospital)
<b>3</b>	<b>A5</b> (application by Nearest Relative) <b>or A6</b> (application by Approved Mental Health Professional) <b>A7</b> (joint medical recommendation) <b>or 2 x A8</b> (separate medical recommendations) <b>H3</b> (record of detention in hospital)
<b>4</b>	<b>A9</b> (application by Nearest Relative) <b>or A10</b> (application by Approved Mental Health Professional) <b>A11</b> (note: only one medical recommendation is needed) <b>H3</b> (record of detention in hospital)
<b>5(2)</b>	<b>H1</b> (medical report)
<b>5(4)</b>	<b>H2</b> (nursing report)
<b>17A/Community Treatment Order</b>	<b>CTO1</b> (medical practitioner's application)
<b>Community Treatment Order Recall</b>	<b>CTO3</b> (notice of recall) <b>CTO4</b> (record of detention in hospital)
<b>Community Treatment Order Revocation</b>	<b>CTO3 and CTO4</b> (as for recall above) <b>CTO5</b> (notice of revocation)

## **RECEIVING SECTION DOCUMENTS**

### **Introduction**

This guide should be used in conjunction with the checklist for receipt of documents.

The guide is not intended to be an exhaustive explanation of section 3 and section 2 but merely provides explanations of the various criteria required to detain patients under these two sections of the Act.

When accepting either a section 2 or a section 3, you must also complete Form H3. For further information on errors in applications, see [Reference Guide to the Mental Health Act 1983](#), paragraphs 31.18-31.39.

### **Suspected Invalid Section Applications**

Situations in which an unlawful detention may be found will vary and in some cases it may be possible to deal with the issue immediately by contacting the law teams.

## **APPROVED MENTAL HEALTH PROFESSIONAL APPLICATIONS**

Section 13 of the Mental Health Act 1983 requires an Approved Mental Health Professional (AMHP) to make an application for admission in any case where they consider an application should be made and where they feel it necessary to do so. To satisfy the criteria for detention the Application must be completed in accordance with the following guidelines.

1. **Hospital Name and Address**

The correct names and addresses for the Trust Hospital sites are:-

Royal Stoke University Hospital  
Newcastle Road  
Stoke On Trent  
Staffordshire  
ST4 6QG

County Hospital  
Weston Road  
Stafford  
Staffordshire  
ST16 3SA

2. **AMHP Name**

The AMHP should complete their full name, eg. Jane Jones and not J Jones.

3. **Name and Address of Patient**

The full name and address of the patient should be shown. The name and address of the patient must be the same on all documentation. If the patient is homeless then NFA would be written in this section.

4. **Appropriate Treatment**

For section 3 applications only. Check that the doctors have specified where appropriate treatment is available.

5. Social Services Authority

The AMHP must name the Social Services Authority they are employed by eg. Stafford County Council, Staffordshire Council, or Stoke on Trent City Council.

6. Nearest Relative Details– Section 3 Applications

For section 3 applications, the Approved Mental Health Professional should make every attempt to consult the patient's nearest relative (unless consultation is not reasonably practicable or would cause unreasonable delay).

If the nearest relative objects, the Approved Mental Health Professional cannot proceed. In some instances they may apply to a Court for displacement of the nearest relative.

***You should check the following on Section 3 Applications***

- 6.1 If the nearest relative has been consulted - that the relevant section on the application has been completed.
- 6.2 If the authorised representative has been consulted - that the relevant section has been completed.
- 6.3 If the nearest relative has not been consulted - that this is because the Approved Mental Health Professional does not know who they are or that the patient has no nearest relative.
- 6.4 If the nearest relative is known but has not been consulted because it is not reasonably practicable or would involve unreasonable delay - that the relevant section has been completed.

***One of the above sections must be completed for a section 3 application.***

7. Nearest Relative Details – Section 2 Applications

For section 2 applications the AMHP does not have to consult the nearest relative. However, section 11(3) does require them to take whatever steps are necessary to inform the person that the application is being, or has been made.

***You should check the following for section 2 applications***

- 7.1 If the nearest relative is known - that the relevant section has been completed.
- 7.2 If the authorised representative is known - that the relevant section has been completed.
- 7.3 If the nearest relative is not known or the patient does not have a nearest relative - that the appropriate section has been completed.
- 7.4 That the Approved Mental Health Professional has indicated, by deleting one of the two options, that they have, or have not, informed the nearest relative.

***One of the above three sections must be completed and they must indicate whether they have informed the nearest relative or not. (Where the nearest relative has not been consulted prior to the application being made, they must inform the hospital as soon as this has been done).***

8. Patient seen within last 14 days

For detention to be valid, the AMHP must have examined the patient within 14 days of the date of the application.

9. Medical Practitioners

If neither of the two medical practitioners making the recommendation knew the patient beforehand, the AMHP should state on the application why it was not possible to get a recommendation from a medical practitioner who did know the patient.

10. Date and Signature

For the application to be valid, the AMHP must date and sign the application (including use of electronic signature where applicable).

### **MEDICAL RECOMMENDATIONS**

For both a section 2 application and a section 3 application, it is necessary to have medical recommendations from two medical practitioners. These recommendations must comply with the following guidelines.

11. Name and Address of Doctor

Both medical practitioners should complete their full name. For example, Dr J Bloggs is not acceptable and should be Dr Jonathan Bloggs. Their contact address must also be completed in full.

12. Name and Address

The full name and address of the patient should be shown. The name and address of the patient must be the same on all documentation relating to the detention.

13. Examination within 5 days of each other

Occasionally the two medical practitioners will examine the patient separately. In these instances the examinations must not be more than 5 days apart.

14. Medical Practitioners

If neither of the practitioners knew the patient beforehand, they should delete the appropriate section and the AMHP should state on their application why it was not practicable to get a recommendation from a medical practitioner who did know the patient.

Where two doctors from the same Trust complete the recommendations, one must not work in a position where they are under the others directions.

15. Section 12 Approved Doctor

One of the medical practitioners must be approved under section 12(2) of the Act and they should delete the appropriate paragraph to indicate this. You are not obliged to make any further checks to determine if the medical practitioners are approved under section 12(2).

16. Criteria for Detention – Section 2

To be detained under section 2 of the Act the patient needs to be suffering from a mental disorder of a nature or degree which warrants their detention in hospital for assessment, or for assessment followed by treatment for at least a limited period. The patient needs to be detained for his own health and/or safety or with a view to the protection of others.

When accepting section 2 documentation you should satisfy yourselves that these criteria have been met and are described in the narrative on the recommendations.

17. Criteria for Detention – Section 3

The criteria for detention under section 3 are much more stringent. The patient must be suffering from a mental disorder of a nature or degree which makes it appropriate for them to receive medical treatment in a hospital; treatment in hospital must be necessary for their own health or safety, or for the protection of others; treatment cannot be provided unless detained under section 3; and appropriate medical treatment is available.

When accepting section 3 documentation you should carefully scrutinise the narrative on both recommendations and satisfy yourself that they meet these criteria and that the narrative contains a description of the patient's symptoms and behavior, what other methods of care or treatment are available and why they or informal admission are not appropriate.

18. Date and Signature on Recommendations

Both medical recommendations must be dated on or before the date of the application and both must be signed (including use of electronic signatures where applicable).

19. Date of Acceptance

The date you are accepting the documentation must be within 14 days of the date of the later of the two medical recommendations.

**Appendix 3: Summary of Mental Health Act (1983) Sections**

Section	Purpose	Criteria	Assessment	Duration	Treatment against wishes	Access to Appeal	Discharge	Access to Independent Mental Health Advocate (IMHA)	S17 Leave
2	Compulsory detention in hospital for assessment and treatment.	Person is suffering from a mental disorder of a nature or degree that warrants their detention in hospital for assessment (or for assessment followed by medical treatment) <b>and</b> detention is in the interests of the person's own health or safety or with the view to the protection of other persons.	Recommendations from two Doctors (one must be S12 Approved) and Application of AMHP or NR.	Up to 28 days	Yes	Application in first 14 days for Mental Health Tribunal. Managers Hearing at any point	By RC (Responsible Clinician) or Nearest Relative / Tribunal / Hearing	Yes	Yes
3	Compulsory detention in hospital for treatment	Person is suffering from mental disorder of a nature or degree that makes it appropriate for them to receive medical treatment in hospital; <b>and</b> it is necessary for their own health or safety, or for the protection of others that they should receive such treatment <b>and</b> it cannot be provided unless they are detained under Section 3 <b>and</b> Appropriate medical treatment is available.	Recommendations from two Doctors (one must be S12 Approved) and application of AMHP or NR.	Up to 6 months, renewed for 6 months then yearly	Yes	Mental Health Tribunal and Managers Hearing on one occasion during detention period	Discharge by Responsible Clinician or Nearest Relative / Tribunal / Managers Hearing	Yes	Yes
4	Emergency detention to Hospital	The person must meet the criteria for Section 2 <b>and</b> there is an immediate and significant risk of mental or physical harm to the patient or to others; danger of serious harm to property; or a need for physical restraint of the patient.	Application by AMHP or NR and one Doctor who has examined the patient within the last 24 hours.	72 Hours	No	No Right of Appeal	When converted to S2 via medical rec. or discharge by Responsible Clinician	No	No
5.2	Holding power to detain a person in hospital so that they can be assessed.	An application should be made to detain an in-patient in hospital. The Doctor or Approved Clinician has to be of the opinion that the criteria for S2 or S3 are met. <b>Only applies to inpatients.</b>	By a Doctor or Approved Clinician	72 Hours	No	No Right of Appeal	Application for S2/3. Discharged RC or no Application by AMHP	No	No

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5.4	Holding power to detain a person in hospital.	Person suffering from a mental disorder to such a degree that it is necessary for the patient's health or safety or for the protection of others that they need to be restrained from leaving hospital; <b>and</b> It is not practicable to secure the attendance of a clinician for the purposes of furnishing a report under Section 5(2). <b>Only applies to inpatients.</b>	By a nurse (RMN or RNLD)	Six Hours	No	No Right of Appeal	On arrival of Doctor undertaking assessment for 5.2	No	No
135(1)	Warrant used to gain access to premises and remove a person to a place of safety	Person believed to have a mental disorder and is not receiving proper care, access to a premises has been or is likely to be denied	Application to magistrate by AMHP executed by a Police Officer accompanied by an AMHP and Doctor.	Warrant valid for 28 days / Place of Safety 72 hours	No	No Right of Appeal	Detention under S2 / S3 no Application by AMHP	No	No
135(2)	Warrant to gain access to a premises to retake a person into custody who is already detained or recalled	Person is detained or has been recalled and access to a premises has been or is likely to be denied	Application by Police Officer, AMHP, anyone Hospital Authorises executed by Police Officer, should be accompanied by Mental Health Worker	Warrant valid for 28 days	No	No Right of Appeal	N/A	No	No
136	Police Power to protect or control individuals in public places	Person is suffering from a mental disorder that requires <b>immediate care and / or control</b> and they are in a <b>public place</b> , (defined as any place where the public have access to, by payment or otherwise),	By a Police Officer	Place of Safety 24 hours	No	No Right of Appeal	Application for S2 /S3 <b>or</b> if no mental disorder Doctor can discharge, otherwise AMHP & Doctor discharge	No	No

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7	Input of a Guardian (usually Local Authority) required about residence, daily occupation and allowing access to care team	Person has mental disorder of nature or degree which warrants their reception into Guardianship; <b>and</b> it is necessary in the interests of the welfare of the patient or for the protection of others <b>and</b> person is aged 16 or over.	Recommendations from two Doctors (one must be S12 Approved) and application of AMHP or NR.	Up to 6 months, renewed for 6 months then yearly	No Medical Treatment however person can be conveyed to the specific address and returned there if they are absent without leave	Mental Health Tribunal and Guardianship Panel on one occasion during detention period	Discharge by Responsible Clinician / Mental Health Tribunal / Nearest Relative/ Local Authority Guardianship Panel	Yes	N/A
CTO 17A-G	CTO's are used to place conditions around the care and treatment of patients who live in the community	Detained under S3, s37 or other treatment section <b>and</b> person has mental disorder of a nature or degree which makes it appropriate for them receive medical treatment <b>and</b> it is necessary for the health and safety of the patient or the protection of others <b>and</b> appropriate treatment can be provided in the community <b>and</b> the power of recall is needed.	Application by RC, AMHP has to Agree. RC can Recall, also Revoke if AMHP agrees	Up to 6 months, renewed for 6 months then yearly	Only after recall	Mental Health Tribunal and Managers Hearing on one occasion during detention period	Discharge by Responsible Clinician or Nearest Relative / Tribunal / Managers Hearing	Yes	N/A

# Mental Health Act– Accepting Section Papers for Site Managers

Patient detained under mental health act at UHNM

## Section 2

A4 x 2 (2 medical recommendations)  
A2 x 1 (AMPH application)  
All 3 papers given or sent by email to site matrons and ensure copy are placed in the notes.  
An AMPH report will also be completed

## Section 3

A8 x2 (medical Recommendations)  
A6 x1 (AMPH application)  
All 3 papers given or sent by email to site matrons and ensure copy are placed in the notes.  
An AMPH report will also be completed

## Section 5,2

H1 form given/sent to site matron

Site matron scrutinises and completes H3 form and scrutiny checklist and then sends papers to mental health law team office Harplands Hospital mental health law team or electronically too  
[mentalhealthlawteam@combined.nhs.uk](mailto:mentalhealthlawteam@combined.nhs.uk)  
[MHApapersStGeorges@mpft.nhs.uk](mailto:MHApapersStGeorges@mpft.nhs.uk)

Site matron completes and signs form H1 for section 5,2 site matron to make MHLT and Matron for mental health aware  
Forms to be sent to mental health law team office at Harplands Hospital or electronically  
[mentalhealthlawteam@combined.nhs.uk](mailto:mentalhealthlawteam@combined.nhs.uk)  
[MHApapersStGeorges@mpft.nhs.uk](mailto:MHApapersStGeorges@mpft.nhs.uk)

Mental health law team scrutinise and send following information to the patient (CQC leaflet, appeal form, patient rights form, advocacy form, information on section 17 and what this is)

Team to complete mental health act rights with patient and support with appeal process and refer to advocates services

Mental health law team scrutinise and send out patient information rights leaflet and scrutinised and accepted documents. If these have been amended they should replace the previous copy in the patient's record.