



MENTAL HEALTH ACT

POLICY NUMBER & CATEGORY	MHL 01	Mental Health Legislation
VERSION NO & DATE	4	October 2017
RATIFYING COMMITTEE	Mental Health Legislation Committee	
DATE RATIFIED	October 2017	
ANTICIPATED REVIEW DATE:	October 2020	
EXECUTIVE DIRECTOR	Medical Director	
POLICY LEAD	Head of Mental Health Legislation	
POLICY AUTHOR (if different from above)	Head of Mental Health Legislation	
FORMULATED VIA	Mental Health Legislation Committee; Lay Manager Committee	

POLICY CONTEXT

The Mental Health Act 1983 (MHA) is the legal foundation for dealing with people who require assessment, detention or treatment for mental disorder against their wishes. This policy defines the way that BSMHFT staff will respond to the Act. It provides procedures around the function and responsibilities of Lay Managers and particular parts of the MHA

POLICY REQUIREMENT

- BSMHFT staff's responsibilities under the Act
- The application of the Principles of the Mental Health Act to Trust activities
- How Community Treatment Orders should be delivered
- The responsibilities & function of Lay Managers
- The requirements around providing patients their rights under section 132 and s132a



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1 INTRODUCTION

1.1 Rationale (Why)

This policy and procedure is required to ensure that service users who require detention or compulsion are dealt with consistently with The Mental Health Act 1983 (as amended 2007). To do this, it is necessary that BSMHFT staff operate within the confines of the Act and its Code of Practice

1.2 Scope (Where, When, Who)

This policy applies to all circumstances and staff where the Mental Health Act is used or considered.

1.3 Principles (Beliefs)

The underlying principles of this policy are the 5 principles of the Mental Health Act 1983 as amended:

1. Least restrictive option 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.

2. 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.

3. Respect and dignity

Patients, their families and carers should be treated with respect and dignity and listened to by professionals.

4. 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.

5. Efficiency & 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.



Staff will work collaboratively with colleagues from learning disabilities services and other organisations, in order to ensure that service users and carers have a positive episode of care whilst in our services. Information is shared appropriately in order to support this.'

2. POLICY (What)

- 2.1 All BSMHFT staff will follow both the word and the spirit of the Mental Health Act 1983 and it's Code of Practice and follow the detailed guidance contained in the attached procedure documents.
- 2.2 All staff will follow the requirement to consider the 5 principles when taking decisions under the Mental Health Act

3. PROCEDURE

- 3.1 The Mental Health Act 1983 is a complex piece of legislation and in order to help staff adhere to its requirements, BSMHFT have produced a range of procedure documents
- 3.2 BSMHFT staff, both directly employed and seconded are required to follow the processes as laid out within "Mental Health Procedures Book 1 Compulsory Admission under Part 2" and "Book 2 Supervised Community Treatment" and "Book 3 Guardianship"; the s132 and s132a Patient Rights Procedures; and Lay Manager Procedures.
- 3.3 In addition, a range of other policies have been amended to reflect the changes in the Code of Practice 2015 and these should be followed by all staff.

4. RESPONSIBILITIES

Post(s)	Responsibilities	Ref
All Staff	Be aware of and adhere to the policy	
Service, Clinical and Corporate Directors	Ensure the policy and its responsibilities are cascaded to all relevant staff	
Policy Lead	Keep the policy up to date in line with any legislative changes or amendments Communicate this to all relevant Leads across the Trust	
Executive Director	Accountable for ensuring the policy is up to date and complied with	

5. DEVELOPMENT AND CONSULTATION PROCESS

Consultation summary	
Date policy issued for consultation	Date: 1st September
Number of versions produced for consultation	1
Committees or meetings where this policy was formally discussed	



MH Legislation Committee		Date October 2017
MHAA Business Meeting		September 2017
Lay Manager Committee – email consultation		September 2017
Where else presented	Summary of feedback	Actions / Response

6. REFERENCE DOCUMENTS

The Mental Health Act 1983
 The Mental Health Act (1983) Code of Practice

7. BIBLIOGRAPHY

The Mental Health Act 1983
 The Mental Health Act (1983) Code of Practice

8. GLOSSARY

MHA	Mental Health Act
CTO	Community Treatment Order
RC	Responsible Clinician - The Approved Clinician (AC) with overall responsibility for a patient's case.
CQC	Care Quality Commission
Capacity	The ability to make a decision about a particular matter at the time the decision needs to be made. Some people may lack capacity to make a particular decision (e.g. to consent to treatment) because they cannot understand, retain, use or weigh the information relevant to the decision. A legal definition of lack of capacity for people aged 16 or over is set out in Section 2 of the Mental Capacity Act 2005.
Consent	Agreeing to allow someone else to do something to or for you, particularly consent to treatment. Valid consent requires that the patient has capacity to make the decision and that they are given the information they need to make the decision and that they are not under any duress or inappropriate pressure.

9. AUDIT AND ASSURANCE

Element to be monitored	Lead	Tool	Freq	Reporting Arrangements	Acting on Recommendations and Lead(S)	Change in Practice and Lessons to be shared
S132 / s17 / IMHAs	HMHL	MHA Monitoring	monthly	Reported 6monthly by	HMHL	



		Tool		Lead Nurses to Trust Head of Mental Health Legislation and Chair of MHLC		
Timeliness and conduct of Lay Manager Hearings	HMHL	Monthly reporting Tool	quarterly	MHAAs report to Head of Mental Health Legislation	HMHL	
MHA Compliance and CTOs	HMHL	MHA Monitoring Tool	monthly	Reported monthly by Lead Nurses to Head of Mental Health Legislation and Chair of MHLC	HMHL	

10. APPENDICES

Appendix 1
Appendix 2

MHA Procedure Book 1 Community Treatment Orders
MHA Procedure Book 2 Lay Manager Procedures