



# Responsible Clinician Policy

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<b>Executive director</b>	<b>Medical Director</b>	
<b>Policy lead</b>	<b>Chief Mental Health Legislation Officer</b>	
<b>Policy author (if different from above)</b>	<b>Chief mental Health Legislation Officer</b>	
<b>Exec Sign off Signature (electronic)</b>		
<b>Disclosable under Freedom of Information Act 2000</b>	<b>Yes</b>	

## Policy context

The Mental Health Act 1983 and the MHA Code of Practice 2015 place a responsibility on every NHS Trust's to have local protocols which should Ensure that every patient Detained Under the MHA 1983 has a Responsible clinician at all times who is the available Approved Clinician with the most appropriate expertise to meet the patient's main assessment and treatment needs.

## Policy requirement (see Section 2)

All Patients Detained under the MHA will have an appropriate Responsible clinician at all times. All Trust staff will empower and work collaboratively with such Responsible clinician to deliver His/her duties

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## **1. Introduction**

### **1.1 Rational**

In all cases the Responsible Clinician will be the Approved clinician with overall responsibility for the patient's case as set out in section 34(1) of the 1983 Act.

If the RC is not qualified to make decisions about a particular treatment then another appropriately qualified professional will take charge of that matter, with the RC continuing to retain overall responsibility for the patient's case.

The Responsible clinician has extensive duties and Powers Under the Mental Health Act 1983 (Refer to appendix 1).

The Mental Health Act Code of Practice places a responsibility on the Trust to have local protocols which should: -

- Ensure that the patient's Responsible Clinician is the available Approved Clinician with the most appropriate expertise to meet the patient's main assessment and treatment needs.
- Ensure that it can easily be determined who a particular patient's Responsible Clinician is.
- Ensure that cover arrangements are in place when the Responsible Clinician is not available (e.g. out of normal working hours, annual leave etc).
- Include a system for keeping the appropriateness of the Responsible Clinician under review. To ensure that the most appropriate available clinician is allocated as the patient's Responsible Clinician, the Trust must keep a register of all the Approved Clinicians. The selection of the appropriate Approved Clinician to be the Responsible Clinician for a particular patient should be based on the individual needs of the patient concerned but will also be influenced by the structure of the service.
- Even if the patient's main treatment needs are not immediately clear it would still be necessary to allocate a Responsible Clinician promptly upon the patient's detention in hospital or under a Community Treatment Order.

### **1.2. Scope**

This policy applies to all patients detained under Part 2 or Part 3 of the Mental Health act 1983 (as amended by the Mental Health Act 2007) who must have a Responsible Clinician to perform various functions under the Act. The Responsible Clinician has overall responsibility for the patient's care and treatment. The functions of the Responsible Clinician may not be delegated, but the patient's Responsible Clinician may change from time to time and the role may be occupied on a temporary basis in the absence of the usual Responsible Clinician (including periods of leave and out of hours).

This policy applies to all staff working in Birmingham and Solihull Mental health NHS Foundation Trust (including agency and seconded) whose role involves the care and treatment of patients / service users covered under the Mental Health Act.

### **1.3. Principles**

The Trust positively supports individuals Detained under the Mental Health Act and ensures that no-one is prevented from accessing the full range of services that a Responsible Clinician offers within mental health services. All staff will work collaboratively with acute hospital Trusts and other organisations, in order to ensure that every patient and carer has a positive episode of care whilst in our services.

The Trust positively supports individuals with learning disabilities and ensures that no-one is prevented from accessing the full range of mental health services available. 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: The policy**

Every patient detained under the Mental Health Act both as an inpatient and in the community should have a Responsible clinician at all times who will discharge the full range of responsibilities of a RC as laid out in this policy.

The purpose of this policy is to ensure that, for all those detained under the Mental Health Act, or subject to Community Treatment Orders, there are clear and thorough arrangements in place.

- The allocation of a Responsible Clinician
- The provision of cover both in and out of working hours

Such that at all times there is an identified Responsible Clinician.

## **3: The Procedure**

### **3.1 Allocation of Responsible Clinician**

#### **Detention in Hospital**

In most cases the appropriate Approved Clinician to act as the patient's Responsible Clinician will be the Consultant Psychiatrist for the ward on which the patient is detained under the Mental Health Act.

Following admission the Responsible Clinician will be initially allocated as follows:

- Where there is a consultant for the ward then that consultant will be the Responsible Clinician.
- In services where there is more than one consultant attached to the ward then each ward must have a clear process for the immediate initial determination of who will be the Responsible Clinician this will be developed by the Clinical director (CD) for the Programme. Advice from the Chief Mental health Legislation officer may be sought by the CD.

- The Nominated RC will have sufficient clinical time allocated to carry out all the duties of an RC as set out in the Policy.
- Patients will not continue to be detained without a Nominated RC.

There may be circumstances in which, following an initial period of assessment, it becomes clear that the patient's particular needs are such that a different Responsible Clinician is required. In some cases this will result in the patient being transferred to another ward and a new Responsible Clinician being allocated for the patient. Where this is not the case and the patient will continue to be treated on the same ward then the current Responsible Clinician should consult and liaise with the Approved Clinician who is felt to be more appropriate to act as the Responsible Clinician for this patient.

### **Community Treatment Orders**

In most cases the appropriate Responsible Clinician for a patient who is subject to a Community Treatment Order will be the Consultant Psychiatrist for the Community Team who will be providing care for the patient once discharged from hospital. This may be the HTT consultant Psychiatrist in the short term. Where there is more than one such person in a team the Responsible Clinician for a patient during their preceding detention and who has initiated the application for a community Treatment Order, should liaise with Approved Clinicians in the Community Team to establish who will take on the Responsible Clinician role. The Responsible Clinician should always be established prior to the application for Community Treatment Order being completed. The Application of such Community treatment order should be agreed with the Community RC. The Consent to treatment procedure should also be completed or a completion process agreed with the Subsequent RC before discharge from the ward

There may be circumstances in which following an initial period of care and treatment under the Community Treatment Order, it becomes clear that the patient's particular needs are such that a different Responsible Clinician is required. In most cases this will result in the patient being transferred to another team which is considered more appropriate for their needs. Should this not be the case then the current Responsible Clinician should consult and liaise with the Approved Clinician who is felt to be more appropriate to act as the Responsible Clinician for this patient.

### **3.2 Cover Arrangements when the Responsible Clinician is not available**

A Responsible Clinician should always be in place for any patient who is detained under the Mental Health Act or subject to a Community Treatment Order.

The Nominated RC/Covering RC will Discharge the full range RC duties.

The Clinical director will be responsible for ensuring that Sufficient clinical time is available and job planned for an RC to discharge his/her duties .

No patient should be without a RC who is discharging the Full range of RC responsibilities because of a RCs absence including sickness.

Should any patient not have an RC who is able to discharge the full range of RC responsibilities, such detention will be unlawful and such a case of detention should be reviewed urgently by the CD and AD for the service and if resolution cannot be achieved escalated to the Chief executive and the chief Mental Health legislation officer informed.

If arrangements for a Nominated RC cannot be made within the next 72hrs, such detention should not continue. Such an Incident should be reported as a serious incident and will be investigated by the trust.

### **Annual Leave/Study Leave/Maternity or Paternity Leave/Unpaid Leave**

Any Approved Clinician who is currently a Responsible Clinician should make arrangements for another suitably qualified Approved Clinician to act as the Responsible Clinician to discharge their full range of duties for any period of annual leave or study leave. The Clinical Director should provide appropriate assistance and will have overall responsibility for this to be in place.

### **Sick Leave**

The Clinical Director of the Programme in which a Responsible Clinician works would be responsible for arranging cover from an appropriately qualified Approved Clinician for any period of sick leave, where a period of sickness becomes long term i.e. beyond one week then there should be a more formal transfer of Responsible Clinician as described under 3.4.

There should be formal agreed local processes and agreements in each programme in place led by Clinical directors for this to occur both for short term and long-term sickness.

### **Part Time**

Any Approved Clinician who is currently a Responsible Clinician and who works part time is responsible, in conjunction with their Clinical Director, for ensuring that another Approved Clinician can act as the Responsible Clinician for the hours when they are not at work. The Clinical director will have overall responsibility to ensure that these arrangements are in place.

The cover arrangements described in this section do not constitute a transfer of Responsible Clinician as described under 3.4.

### **3.3 Out of Hours Cover**

The On Call consultant Psychiatrist (who must be an Approved Clinician) will provide cover out of hours for Responsible Clinician functions when the regular Responsible clinician is not available. It is good practice to keep to a minimum any of the Responsible Clinician functions that are exercised in this way. Responsible Clinician should not leave decisions that they are required to make or functions that they are required to undertake to the On-Call Consultant/Out of Hours RC. However, this should not prevent decisions being made when they are required out of hours.

### **Any treatment provided**

Section 62 emergency treatment can be authorised by an On call RC or on his/her direction, this would normally be only a one off when a SOAD request is not needed. This should be followed by a SOAD request within 2 hrs if this is planned as ongoing treatment. Treatment offered out of hours generally will be one off treatments.

Seclusion MDT Reviews as per seclusion policy would be the responsibility of the On call RC during the On call period.

Patients should not be moved between wards without consent and knowledge of the current and receiving RCs during working hours and without the consent of the on call RC out of hours.

Leave beds when used for patients on section 17 leave should occur where possible with the consent of the RC. When this does not occur RIO Clinical record should note the name of the senior manager/Senior professional responsible for authorising the use of a leave bed.

Decisions on CTO recalls and Section 17 leave granting and rescinding can only be made by an RC.

No Section 17 leaves can be granted without RC approval

Out of hours RC should make these decisions out of hours when regular RC is unavailable.

RC must be immediately informed of any decision to seclude a patient.

RC must be informed if any Detained patient is AWOL and the RC must be informed when the patient returns. This will ensure legal compliance accountability, facilitate multidisciplinary work and contribute to patient safety.

The cover arrangements described in this section do not constitute a transfer of Responsible Clinician as described in Section 3.4.

### **3.4 Change of Responsible Clinician**

As the needs of the patient may change over time, it is important that the appropriateness of the Responsible Clinician is kept under review through the care planning process. It will be appropriate for the patient's Responsible Clinician to change during a period of care and treatment if such change enables the needs of the patient to be met more effectively. However, in considering such a change it is also important to take account of the need for continuity and continuing engagement with, and knowledge of, the patient.

Where a patient's treatment and rehabilitation require movement between different hospitals or to the community (e.g. Community Treatment Order, Guardianship or S41), successive Responsible Clinicians will need to be identified in good time to enable movement to take place. The existing Responsible Clinician is responsible for overseeing the patient's progress through the system. They should take the lead in identifying their successors. This should be considered at the earliest opportunity. Change of Responsible Clinician should be considered and agreed within the Care Programme Approach process, and a notification sent to the Mental Health legislation office.

Such change of RC Process as a minimum should include communication and agreement between both RCs.

Whenever there is a change of a Responsible Clinician this should be clearly documented in the patient's records and the Mental Health Legislation office notified. It is good practice for the patient (and those involved in their care, including any carer) to be informed. The previous and the new Responsible Clinician should agree between them who will undertake this responsibility.

Such Notification to the Mental Health Legislation Administrator can take the form of a paper form signed by both Responsible Clinician's or a simple email to the Mental Health Legislation administrator setting out the agreement by one of the RCs copied into the second RC.

The Trust as the Responsible authority will not recognise change of RC unless the above minimum procedure is followed and the initial RC will remain the RC of the Patient until such process is completed.

The Above process will apply to all changes of RC.

This particularly applies to patients under Community Treatment Orders, if a Community Treatment Order is considered, the existing Inpatient Responsible Clinician needs to liaise with their successor in the Community and agree the details of the order, condition, care plans...etc. It is anticipated that the Community Responsible Clinician will be the Consultant Psychiatrist working in the appropriate community team. If the needs or circumstances of a patient on a Community Treatment Order change (e.g. change of address), a change of Responsible Clinician may be warranted.

### **3.5 Recall of patient under Community Treatment Order**

Where a patient who is subject to a Community Treatment Order is recalled to hospital then, it would usually be the In-Patient Consultant for the admitting ward who would be most appropriate to be the patient's Responsible Clinician for the recall period (up to 72 hours) and this will be the default standard practice.

However in some circumstances (e.g. where recall is for the specific purpose of compulsory treatment) or to a location other than an inpatient ward, it may be more appropriate for the existing Community Responsible Clinician to keep the overall responsibility for the patient's care and treatment. Such a recall may occur to a Trust location other than a Hospital. Where this is the case then this needs to be documented and communicated to the Mental Health Legislation Office.

When an RC makes a decision to recall a patient appropriate place for recall; whether an inpatient bed or a suitable alternative should be available.

Should such a provision not be available, the Associate Director of the programme, after discussion with the Chief operating officer should provide a written update as to the available alternatives or lack thereof to the RC. So that the lawfulness of the ongoing detention of the patient can be considered by the RC.

A patient should not be continued to be detained on a CTO if there is no realistic prospect of a suitable location to recall such a patient within 24hrs.

### **3.6 The Responsible Clinician for patients under 18 and others with specialist needs**

Where possible, those responsible for the care and treatment of children and young people should be child specialists. Where this is not possible, it is good practice for the clinical staff to have regular access to and make use of a CAMHS specialist for advice and consultation.

Similarly, those responsible for the care of adults, mentally disordered offenders and elderly will be relevant specialists. Where this is not possible, it is good practice for the clinical staff to have regular access to and make use of a specialist for advice and consultation.

Those responsible for the care of children and young people in hospital should be familiar with other relevant legislation, including the Children Acts 1989 and 2004, Mental Capacity Act 2005 (MCA), Family Law Reform Act, 1969 and 1987, Human Rights Act 1998, and the United Nations Convention on the Rights of the Child as well as relevant case law, common law principles and relevant codes of practice. When taking decisions under the Act about children and young people, the following should always be borne in mind:

- The best interests of the child or young person must always be a significant consideration.
- Children and Young people should always be kept as fully informed as possible, just as an adult would be, and should receive clear and detailed information concerning their care and treatment, explained in a way they can understand and in a format that is appropriate to their age;
- The child or young person's view, wishes and feelings should always be considered;
- Any intervention in the life of a child or young person that is considered necessary by reason of their mental disorder should be the option that is the least restrictive and least likely to expose them to the risk of any stigmatisation, consistent with effective care and treatment, and it should also result in the least possible separation from family, carers, friends and community or interruption of their education, as is consistent with their wellbeing;
- All children and young people should receive the same access to educational provision as their peers;
- Children and Young people have as much right to expect their dignity to be respected as anyone else; and
- Children and Young people have as much right to privacy and confidentiality as anyone else.

### **3.7 Patients transferred to general hospital**

An existing detained patient who is transferred to a general hospital should remain under the care of their existing Responsible Clinician. There may be circumstances where it is appropriate for such responsibility to be transferred to a Liaison psychiatrist acting as RC for the Acute Hospital Trust, but this should be as a result of direct discussion between the parties involved and agreed jointly.

The Guiding Principle in these cases will be:

1. A Responsible clinician can only remain in this Role when they truly hold overall responsibility for the care of the Patient and are directing such care.
2. Whether the Primary treatment needs of the patient in the medium term (currently and beyond the next 7 days) are mental health or Physical health related
3. Whether the patient in this 7 day period is likely to return back to BSMHFT.

Patients whose primary needs are physical health related and there is no realistic prospect of return to BSMHFT trust bed within 7 days transfer of RC to the RC designated by the Acute Hospital should occur (in most cases this will be a Liaison psychiatry consultant) .

Even in cases where the Needs of the patient are Primarily Mental health related but there is no realistic prospect of the Patients return to BSMHFT bed at the end of 7days (i.e the Patient remains on section 17 leave in a acute hospital beyond 7 days) there needs to a review of need for continued detention under the Mental health act by the BSMHFT RC and consideration needs to be given to ending of detention or transfer of RC responsibility to an RC designated by the Acute Hospital .

BSMHFT will also in the above cases transfer Responsible Authority responsibility to the Acute general Hospital trust at the 7 day point if detention continues.

In cases of patients transferred from secure care to Acute General Hospital. The Secure care RC would also need to consider Security aspects of the case.

Transfer of RC responsibility will not occur to the Consultant liaison psychiatrist in cases of restricted patients generally.

Typical cases will be:

1. Patient transferred from Adult PICU to Acute hospital for treatment of Pneumonia, and likely to Improve and return to PICU in a week, there will be no change of RC in such a case.

2. Where Patient has been admitted to an adult ward in a psychotic state under section 2 of the MHA and It has become evident subsequently that the cause of confusion/psychosis is a malignant brain tumour. Patient is transferred to acute Hospital and is not expected to return to BSMHFT. Under these circumstances either discharge from detention under the MHA or transfer of RC responsibility to a Liaison Psychiatry Consultant may be appropriate.

The chief Mental Health Legislation Officer will provide advice when clarity is needed in specific cases.

### **3.8 Patients admitted to a general hospital under the Mental Health Act**

A patient detained under the MHA 1983 and admitted directly to the general hospital, or who is detained under the MHA 1983 once admitted to the general hospital, will require a Responsible Clinician. In nearly all circumstances this will by default be one of the liaison Consultant

Psychiatrists as designated by the acute General Hospital acting as the responsible authority. If, however, the plan is for a rapid transfer to one of the psychiatric wards i.e. within a few hours, the Responsible Clinician associated with the admitting BSMHFT ward may be more appropriate. Exceptionally there may also be circumstances when a patient is very well known to a particular Community Mental Health Team and the admission to the

general hospital is expected to be short (48hrs or less) where the Responsible Clinician for that team wishes to remain responsible .

The chief mental health Legislation officer will provide advice when clarity is needed in specific cases.

### **3.9 Patients Transferred between wards in hours or Out of hours**

There would be no transfer of Patient between wards without the agreement of the RC or On call RC. Bed managers should consult with the appropriate RC to gain agreement. When such transfer occurs, liaison with the receiving RC should occur and such responsibility rests with the current RC.

No discharge of Patient into the community should occur without the RCs agreement. Bed managers should consult with the appropriate RC to gain agreement. When such need arises liaison with the receiving RC should occur and such responsibility rests with the current RC

Section 17 leave and its extension can only be granted by the RC. Utilisation of Leave bed of a patient can only occur after discussion with and agreement of the current RC who will consider the Risks posed by such a decision in line with the Trust Section 17 leave Policy.

Where exceptionally a leave bed is used for admission without the agreement of the RC. This can only be done on the express authorisation of a Senior BSMHFT Manager (Band 8C and above) and such a managers authorisation will be recorded in the RIO clinical records of the patient on Section 17 leave .

### **3.10. Responsible clinician as clinical leader**

The Trust recognises that the RC has overall responsibility for the Patients care. To deliver on this responsibility the RC will also be empowered to directly influence decision making on all significant care delivery issues pertaining to the patient.

In Hospital settings where majority of Patients are detained or Liable to be detained the responsible clinician to deliver their responsibilities under the Mental health act 1983 (See Annex1) will be part of the senior Management team for the Hospital/ Programme enabling participation in decision making and Governance fora .

Where inpatient care teams are functionalised such as ward based teams or Community teams with significant number of patient's subject CTOs such teams will be clinically lead by the RC. The Team procedures and governance arrangements will reflect this.

### **3.11 Responsible Clinician Qualification and Continuous professional Development**

All Responsible clinicians will be responsible for maintaining their status as Approved clinicians.

They should participate in requisite Annual Appraisal and Continuous professional development to maintain their role as RC funding for which will be available through the trust study leave programme.

This will be based on Minimum standards set by the AC approval panel and their own professional Bodies.

### 3.12 Dissemination, storage and archiving (Control)

This policy will be stored on the Trust's intranet. It will also be disseminated to all Approved Clinicians, doctors, Nurses , bed managers and Mental health legislation administrators .

### 3.13 Training and other resource implications

Training following the revision of the Mental Health Act 1983 Code of Practice, 2015 has already been put in place for all relevant staff groups.

This Policy will form Part of the AC re-approval training programme via the Chief Mental Health Legislation Officer.

Ongoing Training for RCs will be provided via the trust study leave programme.

## 4: Responsibilities

Post(s)	Responsibilities	Ref
All Staff	To familiarise them selves with the policy . All Trust staff will empower and work collaboratively with Responsible clinician to deliver His/her duties,	
Service, Clinical and Corporate Directors	Will ensure that every detained patient under the mental health act has a responsible clinician . Are responsible for ensuring that operational staff including team managers are cognisant with current Responsible clinician policy and practice and ensure that this is embedded operationally.	
Policy Lead	To review and update the policy and deliver training as required	
Executive Director	To have oversight of the policy	

## 5: Development and Consultation process consisting of:

- This policy has been developed by the chief Mental health legislation officer after wide consultation and input from, Clinical Directors , Operational Senior Managers and

Responsible clinicians from Across the trust, the Medical advisory committee and also input from tribunal members and the policy development group

Consultation summary		
<b>Date policy issued for consultation</b>		September 2020
<b>Number of versions produced for consultation</b>		5
<b>Committees / meetings where policy formally discussed</b>		<b>Date(s)</b>
<b>MAC</b>		Sept 2020
<b>PDMG</b>		Nov 2020
Where received	Summary of feedback	Actions / Response

#### 6: Reference documents

- Mental Health Act 1983, amended 2007  
<https://www.legislation.gov.uk/ukpga/1983/20/contents>
- Mental health Act code of Practise 2015  
<https://www.gov.uk/government/publications/code-of-practice-mental-health-act-1983>

#### 7: Bibliography:

N/A

#### 8: Glossary consisting of:

**Medical Director by Delegation to the Head of Mental Health legislation** is responsible for keeping a record of all Approved Clinicians within Birmingham and Solihull Mental health Foundation trust

**Responsible Clinicians** are responsible for carrying out their duties in line with the Mental Health Act and its Code of Practice and this policy.

and Notification of the Mental health legislation administrators whenever there is a change in the Responsible Clinician

**Clinical Directors** are responsible for ensuring that there is adequate cover in place for a Responsible Clinician who is on any type of leave. The Responsible clinician at all times needs to have sufficient time allocated to carry out their responsibilities this is especially the case when they are covering another RC for Sick leave / Study leave / annual leave etc.

Nominal RC cover only /emergency only RC cover or similar practices should not be used to justify continued detention of Patients.

**Chief Mental health Legislation officer:** Is responsible to provide advise to Responsible clinicians and clinical directors on all aspects of this policy

**The Mental Health Legislation Committee** is responsible for monitoring the implementation / operation of this policy.

**9: Audit and Assurance** consisting of:

<b>Element to be monitored</b>	<b>Lead</b>	<b>Tool</b>	<b>Frequency</b>	<b>Reporting Committee</b>
Every patient has an nominated RC at all times	Trust Wide	Data audit from Eclipse	Every year	MHLC

**10. Appendices**

**Appendix 1 - Equality Impact Assessment**

**Appendix 2 – Principle Powers and Duties of a Responsible clinician**

**Appendix 3 - Implementation Plan**



**Appendix 1 – Equality Impact Assessment**

**Equality Analysis Screening Form**

<b>Title of Proposal</b>	<b>Responsible clinician policy</b>			
<b>Person Completing this proposal</b>	Dr. D.Maganty	<b>Role or title</b>	Chief mental health legislation officer	
<b>Division</b>	Medical directorate	<b>Service Area</b>	MHL	
<b>Date Started</b>	1/5/2020	<b>Date completed</b>	15/10/2020	
<b>Main purpose and aims of the proposal and how it fits in with the wider strategic aims and objectives of the organisation.</b>				
To meet the compliance needs of the organisation under the MHA 1983				
<b>Who will benefit from the proposal?</b>				
Patients and the organisation				
<b>Impacts on different Personal Protected Characteristics – <i>Helpful Questions:</i></b>				
<i>Does this proposal promote equality of opportunity? yes</i> <i>Eliminate discrimination? yes</i> <i>Eliminate harassment? yes</i> <i>Eliminate victimisation? yes</i>		<i>Promote good community relations? yes</i> <i>Promote positive attitudes towards disabled people? yes</i> <i>Consider more favourable treatment of disabled people? yes</i> <i>Promote involvement and consultation? yes</i> <i>Protect and promote human rights? yes</i>		
<b>Please click in the relevant impact box or leave blank if you feel there is no particular impact.</b>				
<b>Personal Protected Characteristic</b>	<b>No/Minimum Impact</b>	<b>Negative Impact</b>	<b>Positive Impact</b>	<b>Please list details or evidence of why there might be a positive, negative or no impact on protected characteristics.</b>
Age			yes	

Including children and people over 65 Is it easy for someone of any age to find out about your service or access your proposal? Are you able to justify the legal or lawful reasons when your service excludes certain age groups				
<b>Disability</b>				<b>It does not exclude any one based on age , It is easy to access this policy once ratified from the trust intranet</b>
Including those with physical or sensory impairments, those with learning disabilities and those with mental health issues Do you currently monitor who has a disability so that you know how well your service is being used by people with a disability? Are you making reasonable adjustment to meet the needs of the staff, service users, carers and families?				

<b>Gender</b>				<b>It has no impact on gender</b>
This can include male and female or someone who has completed the gender reassignment process from one sex to another Do you have flexible working arrangements for either sex? Is it easier for either men or women to access your proposal?				
<b>Marriage or Civil Partnerships</b>				<b>It has no direct impact in this area</b>
People who are in a Civil Partnerships must be treated equally to married couples on a wide range of legal matters Are the documents and information provided for your service reflecting the appropriate terminology for marriage and civil partnership?				
<b>Pregnancy or Maternity</b>				<b>Yes</b>
This includes women having a baby and women just after they have had a baby Does your service accommodate the needs of expectant and post-natal mothers both as staff and service users? Can your service treat staff and patients with dignity and respect relation in to pregnancy and maternity?				
<b>Race or Ethnicity</b>				<b>there is disproportionate detention of individuals from BAME community , and specifically those of Black ethnicity under the Mental health act . But this policy has No direct impact in perpetrating this disproportionality</b>
Including Gypsy or Roma people, Irish people, those of mixed heritage asylum seekers and refugees What training does staff have to respond to the cultural needs of different ethnic groups?				

What arrangements are in place to communicate with people who do not have English as a first language?				
<b>Religion or Belief</b>				<b>No direct impact</b>
Including humanists and non-believers Is there easy access to a prayer or quiet room to your service delivery area? When organising events – Do you take necessary steps to make sure that spiritual requirements are met?				
<b>Sexual Orientation</b>				<b>No direct impact</b>
Including gay men, lesbians and bisexual people Does your service use visual images that could be people from any background or are the images mainly heterosexual couples? Does staff in your workplace feel comfortable about being 'out' or would office culture make them feel this might not be a good idea?				
<b>Transgender or Gender Reassignment</b>				<b>No direct impact</b>

This will include people who are in the process of or in a care pathway changing from one gender to another Have you considered the possible needs of transgender staff and service users in the development of your proposal or service?				
<b>Human Rights</b>				<b>This policy promotes and protects the human rights of the patient who is detained , by ensuring compliance with necessary safeguards</b>
Affecting someone's right to Life, Dignity and Respect? Caring for other people or protecting them from danger? The detention of an individual inadvertently or placing someone in a humiliating situation or position?				
<b>If a negative or disproportionate impact has been identified in any of the key areas would this difference be illegal / unlawful? I.e. Would it be discriminatory under anti-discrimination legislation. (The Equality Act 2010, Human Rights Act 1998)</b>				
	<b>Yes</b>	<b>No</b>		
<b>What do you</b>	<b>High Impact</b>	<b>Medium Impact</b>	<b>Low Impact</b>	<b>No Impact</b>
<b>consider the level of negative impact to be?</b>				<b>No impact</b>

If the impact could be discriminatory in law, please contact the **Equality and Diversity Lead** immediately to determine the next course of action. If the negative impact is high a Full Equality Analysis will be required.  
 If you are unsure how to answer the above questions, or if you have assessed the impact as medium, please seek further guidance from the **Equality and Diversity Lead** before proceeding.  
 If the proposal does not have a negative impact or the impact is considered low, reasonable or justifiable, then please complete the rest of the form below with any required redial actions, and forward to the **Equality and Diversity Lead**.

**Action Planning:**

How could you minimise or remove any negative impact identified even if this is of low significance?

How will any impact or planned actions be monitored and reviewed?

How will you promote equal opportunity and advance equality by sharing good practice to have a positive impact other people as a result of their personal protected characteristic.

Please save and keep one copy and then send a copy with a copy of the proposal to the Senior Equality and Diversity Lead at [hr.support@bsmhft.nhs.uk](mailto:hr.support@bsmhft.nhs.uk). The results will then be published on the Trust's website. Please ensure that any resulting actions are incorporated into Divisional or Service planning and monitored on a regular basis.

**Full Equality Analysis Form**

<b>Title of Proposal</b>	<b>Responsible clinician policy</b>		
<b>Person Completing this proposal</b>	<b>Dinesh Maganty</b>	<b>Role or title</b>	Chief Mental health legislation officer
<b>Division/Department</b>	<b>Medical directorate</b>	<b>Service Area</b>	Medical directorate , mental health legislation

<b>Date Started</b>		<b>Date completed</b>	
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Looking back at the screening tool, in what areas are there concerns that the proposal treats groups differently, unfairly or disproportionately as a result of their personal protected characteristics?

<b>Summarise the likely negative impacts</b>		<b>Summarise the likely positive impact</b>	
		Protect patients rights under the mental health act and human rights legislation	
<b>What previous or planned consultation or research on this proposal has taken place with groups from different sections of the community?</b>			
		<b>Please provide list of groups consulted.</b>	<b>Summary of consultation / research carried out or planned. If already carried out, what does it tell you about the negative impact?</b>
<b>Group(s) (Community, service user, stakeholders or carers)</b>			
<b>Staff Group(s)</b>			
<b>What up-to-date information or data is available about the different groups the proposal may have a negative impact on?</b>			
<b>Are there any gaps in your previous or planned consultations, research or information? If so are there any other experts, groups that could be contacted to get further views or evidence?</b>			
<b>Yes</b>		<b>No</b>	
<b>If yes please list below</b>			
<b>As a result of this Full Equality Analysis and consultation, what changes need to be made to the proposal? (You may wish to put this information into an action plan and attach to the proposal)</b>			
<b>Will any negative impact now be:</b>			

<b>Low:</b>		<b>Legal:</b>		<b>Justifiable:</b>	
<b>Will the changes made ensure that any negative impact is lawful or justifiable?</b>					
<b>Have you established a monitoring system and review process to assess the successful implementation of the proposal? Please explain how this will be done below.</b>					
<b>Action Planning: How could you minimise or remove any negative impact identified even if this is of low significance?</b>					
<b>How will any impact or planned actions be monitored and reviewed?</b>					
<b>How will you promote equal opportunity and advance equality by sharing good practice to have a positive impact other people as a result of their personal protected characteristic?</b>					

Please save and keep one copy and then send a copy with a copy of the proposal to the Senior Equality and Diversity Lead at [hr.support@bsmhft.nhs.uk](mailto:hr.support@bsmhft.nhs.uk). The results will then be published on the Trust's website. Please ensure that any resulting actions are incorporated into Divisional or Service planning and monitored on a regular basis.



## Appendix 2: Principle Powers and Duties of a Responsible clinician

The principal powers and duties conferred on ACs and RCs by the Act include:  
Having overall responsibility for the care and treatment of the patient. Being available and having the requisite skills to taken on and deliver this responsibility.  
The Nominated RC should have direct hands on involvement in the care of the patient and direct knowledge of the patient and the care being delivered to them and lead on delivery of such care .

### Part 2: Compulsory Admissions

- Section 5(2) Applications in respect of patient already in hospital Where a person is an in-patient in a hospital, if it appears to the AC in charge of

Their treatment that an application ought to be made for compulsory admission, He/she may make a report in writing to that effect to the managers.

- Section 17(1) - (4) Leave of absence from hospital

The RC may grant leave to be absent from the hospital to a patient who is Compulsorily detained, subject to such conditions (if any) as are considered necessary in the interests of the patient or for the protection of other persons. The RC may revoke such leave of absence (in writing) and recall the patient to the hospital if it appears necessary to do so in the interests of the patient's health or safety or for the protection of other persons.

- Section 17A (1) - (6) Community treatment orders

The RC may make a CTO discharging a detained patient from hospital subject to the patient being liable to recall.

The RC may only do this if the relevant criteria are met and an AMHP agrees that it is appropriate to make the order. The RC must consider what risk there would be of a deterioration of the patient's condition if he or she were not detained in a hospital.

- Section 17B - CTO Conditions

The RC may specify such conditions for a CTO as he or she thinks necessary or appropriate, subject to the agreement of the AMHP. The RC may from time to time vary or suspend the conditions specified in a CTO.

- Section 17E - Power to recall to hospital

The RC may recall a community patient to hospital if the patient requires medical treatment in hospital for his/her mental disorder, and there would otherwise be a risk of harm to the health or safety of the patient or to other persons.

- Section 17F - Powers in respect of recalled patients

The RC may revoke the CTO where a patient has been recalled to hospital if the grounds for detention are met and an AMHP agrees.

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- Section 18(2A) - Return and readmission of patients absent without leave  
Where a community patient is at any time absent from a hospital to which he or she is recalled, the RC may authorise a person (in writing) to take the patient into custody and return the patient to the hospital.

- Section 23 - Discharge of patients The RC may make an order in writing discharging a patient absolutely from detention, community treatment or guardianship.

Note: this power is not confined solely to the RC.

- Section 25 - Restrictions on discharge by nearest relative

Where the RC is of the opinion that a patient, if so discharged, would be likely to act in a manner dangerous to the patient or others, the RC may make a report to the hospital managers so as to prevent discharge by the nearest relative.

No further order for the discharge of the patient can be made by that relative during the period of six months beginning with the date of the report.

### **Responsibilities under Part 2 of the Act**

Where a patient is subject to compulsory admission to hospital or guardianship, the RC has taken over the duties previously fulfilled by the RMO. The RC has also taken on a similar role in respect of SCT.

Note that:

- Where the patient is liable to be detained or is a community patient, the RC is defined as the AC with overall responsibility for the patient's case
- Where the patient is subject to guardianship, the RC is defined as the AC Authorised by the responsible LSSA to act.

### **Responsibilities under Part 3 of the Act**

In relation to patients who are the subject of criminal proceedings, RCs have the same functions as previously fulfilled by RMOs.

In addition, certain functions previously restricted to registered medical practitioners can now also be exercised by ACs. For example, an AC may now be responsible for the report on the medical condition of a person remanded to hospital for that purpose under Section 35 of the 1983 Act.

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### **Responsibilities for consent to treatment**

Certain treatments require a second opinion (either as well as or in place of the patient's consent) and that in some circumstances treatment can be Imposed without the patient's consent.

In all these situations, the AC or other person in charge of the treatment now has the functions previously held by the RMO. A typical example of this would be signing a certificate to say that a patient is capable and willing to consent to the treatment. (Form T2), Please refer to consent to treatment Policy for further guidance.

### **Mental Health Review Tribunal**

An AC can visit and examine the patient for the purposes of a reference or application to the Tribunal under those provisions. It is no longer necessary for this duty to be performed by a registered medical practitioner:

The RC will deliver their responsibility as per guidance and practice directions issued by the Courts and Tribunal service.

This will include among other duties a duty to provide a written RC report meeting the requisite practice direction standard to the Mental health review tribunal

(prepared directly or counter signed by the RC) and giving oral evidence to the MHRT .  
RC for the Patient when the application for the tribunal is made is the designated RC to prepare the written report.

## Appendix 3

### IMPLEMENTATION PLAN for ..... Responsible Clinician Policy

Please list the key requirements of the policy and indicate how you will ensure that these are followed by appropriate staff: For a new policy this should identify all issues which the policy is required to address.

Policy requirement	Issues identified / Action to be taken	Lead Person	Time-Scale
<i>Responsible clinicians follow the duties and responsibilities of the RC as set out in law and reflected in the RC policy</i>	Increasing awareness of the duties of a RC within the RC group via AC reapproval training process	Chief Mental health legislation officer	3 months
<i>Senior Managers/Managers , including bed managers Being aware of the policy requirements recognising the role of the RC as decision Maker and individual having overall responsibility for the care of the detained patient</i>	Recognise the leadership and decision making role of the RC and empowering the RC .	Chief Mental health legislation officer/Deputy medical director	3 months
All clinicians and Administrators especially nursing staff and Mental health legislation administrators working collaboratively with the RC to enable the RC to deliver their Role as set out in this policy	Dissemination of this policy enabling nursing staff and MHL administrators Recognising the duties and role of the RC as set out in this policy	Head of mental health Mental health legislation	3 months

#### Resources

- **Have the financial impacts of any changes been established?**
- **Are other resources required to enable the implementation of the policy e.g. increased staffing, new documentation?**

*Identification of resource impacts is essential at the start of the process to ensure action can be taken to address issues which may arise at a later stage.*

Please list the key requirements of the policy and indicate how you will ensure that these are followed by appropriate staff: For a new policy this should identify all issues which the policy is required to address.

Policy requirement	Issues identified / Action to be taken	Lead Person	Time-Scale
All policies and procedures within the Trust will be developed, agreed and implemented in accordance with this standard policy and procedure and in this common format (see Appendix 1).	This policy has been developed agreed and is being presented for implementation as per trust Policy and procedure	Chief Mental health legislation officer	3 months
All managers have a responsibility to ensure that their staff are aware of key policies which impact on their roles and should ensure that all staff are able to access any Trust policy, and receive appropriate training and support to ensure that policies can be complied with.	Addressed above	Chief mental health legislation officer	3 months
All Policies are required to be approved by a senior 'ratifying' committee or Executive Director, which will report to the Trust Board.	Clinical governance Committee will be ratifying committee Medical director will be exec director responsible	Chief Mental health legislation officer	Current

<p>Equality and Diversity</p> <ul style="list-style-type: none"> <li>• Has an Equality Analysis Screening Form been completed?</li> <li>• As a result of completing an Analysis Screening form, is a full Equality Analysis assessment required.</li> </ul> <p>What actions are being taken to reduce or remove disadvantage, where identified?</p>	<p>Yes full equality analysis not needed</p>		
<p>Involving service users and carers</p> <p><input type="checkbox"/> Is there a need to provide information to service users and carers regarding this policy?</p> <p>Are there service users, carers, representatives or local organisations who could contribute to the implementation?</p>	<p>Yes , this is provided as part of rights under the mental health act administration process .</p>	<p>Chief mental health legislation officer</p>	<p>Currently on going</p>
<p>Have the financial impacts of any changes been established?</p>	<p>This is a on going core Statutory responsibility for the NHS trust . The policy does not impose any new responsibilities</p>		
<p>Are other resources required to enable the implementation of the policy e.g. increased staffing, new documentation?</p>	<p>This would need to be evaluated in the first three months of implementation process</p>	<p>Chief Mental Health legislation officer</p>	<p>3 months</p>

