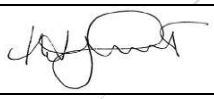
Birmingham and Solihull Mental Health NHS Foundation Trust

VICTIM LIAISON POLICY

Policy number and category	**C 19**	**Clinical**
Version number and date	**3**	**November 2021**
Ratifying committee or executive director	**Clinical Governance Committee**	
Date ratified	**January 2022**	
Next anticipated review	**January 2025**	
Executive director	**Medical Director**	
Policy lead	**Trust MAPPA Lead**	
Policy author *(if different from above)*	**As above**	
Exec Sign off Signature (electronic)		
Disclosable under Freedom of Information Act 2000	**Yes**	

POLICY CONTEXT

- The Domestic Violence, Crime and Victims Act 2004 confers certain rights on victims of a crime. Through this Policy, the Trust will enable victims to exercise their rights and will ensure that all relevant staff is aware of their responsibilities and enabled to fulfil these, as required by the Mental Health Act (MHA) 2007 and Domestic Violence, Crime and Victims Act 2004 (DVCVA).

POLICY REQUIREMENT (see Section 2)

- All eligible Victims' details will be recorded in the clinical records system put in place for communication with the eligible victims' at appropriate stages of patient care to satisfy the requirements of the DVCVA 2004 and at other stages when it is lawful, necessary and proportionate to do so.

- The Trust will have a nominated individual who is responsible for understanding the Victims Code[i], Victim Contact Scheme (VCS), promoting the rights of victims and developing, overseeing, and reporting on policy and initiatives in the organisation.

CONTENTS

1 INTRODUCTION

1.1 Rationale (Why)

Victims of sexual or violent offences committed by mentally disordered offenders have certain statutory rights to know about the patient's presence in the community. The victim's rights are provided by the Domestic Violence Crime and Victims Act 2004 (DVCVA). They were extended by the Mental Health Act 2007 to include victims of unrestricted patients. Those rights are tightly circumscribed in law because of the requirements of medical confidentiality and the Data Protection. A minority of patients at Birmingham and Solihull Mental Health NHS foundation Trust (BSMHFT) are treated under the relevant sections of the Mental Health Act (MHA). The Trust has a duty to fulfil the obligations towards victims as enshrined by the law.

Following the publication of the Victims Code in November 2020, victims of **unrestricted** Mentally Disordered Offenders (MDOs) who have been given a hospital order for a sexual or violent offence, will be entitled to enhanced services under the Victim Contact Scheme from 1st April 2021. This is a significant change and provides victims of unrestricted patients the right to have a Victim Liaison Officer (VLO), who will inform them of key stages under the Victim Contact Scheme (VCS).

1.2 Scope (Where, When, Who)

Under the DVCVA, where the patient was sentenced on or after 1 July 2005, under part 3 of the Mental Health Act 1983 (part 3 patients), victims of serious violent and sexual offences have the right to information from the National Probation Service (NPS) under the VCS. The victims ('statutory victims') have a right to be informed of key developments in the patient detained on part 3 of MHA and to make representations about conditions that should be in place on discharge.

1.3 Principles:

Patients have a right to confidentiality that is enshrined in Law. Eligible victims have a right to make representations at certain points in patient's progress under specific sections of the Mental Health Act. Disclosure of such information may serve to reduce risk of patients and victims coming across each other when victims are unaware that patients have been discharged. Without prejudicing a patient's rights to confidentiality, clinicians should discuss the benefits of enabling relevant information to be given by professionals to victims within the spirit of the Code of Practice for Victims of Crime.

2 Policy

2.1 Identification of Victims:

The Code of Practice for Victims of Crime[ii] (the Victims' Code') sets out the information, support and services, that victims of relevant crimes can expect to receive from criminal justice agencies in England and Wales. The Victims' code also summarises the information victims are entitled to under the VCS, as set out in the DVCVA..

a) Relevant sections of the Mental Health Act:

Victim of a crime is offered an opportunity to engage with the VCS by the VLU, if the part 3 patient is:

- Convicted of a specified sexual or violent offence and made the subject of a hospital order with or without a restriction order.

- Found unfit to plead in respect of a specified sexual or violent offence, but has committed and been charged with the offence

- Found not guilty by reason of insanity under the Criminal Procedure (Insanity) Act 1964 in respect of a specified sexual or violent offence, and made subject to a hospital order with or without special restrictions

- Convicted of a specified sexual or violent offence and then made the subject of a hospital direction (section 45A ofMHA), or

- Sentenced to 12 months imprisonment or more for a specified sexual or violent offence, and transferred to hospital under a transfer direction and restriction direction (section 47 and section 49 of MHA)

b) Relevant Offences:

For the purpose of this guidance, 'relevant offences', or 'specified offences', are those set out in section 45(2) of the DVCVA :

a) Murder or an offence specified in Schedule 15 to the Criminal Justice Act 2003[iii]
b) An offence in respect of which the patient is subject to the notification requirements of part 2 of the Sexual Offences Act 2003[iv], or
c) An offence against a child within the meaning of part 2 of the Criminal Justice and Court Services Act 2000[v].
d) Where victims of part 3 restricted patients do not fall within the scope of the DVCVA for statutory contact under the VCS (i.e. non-statutory victims), the National Probation Service (NPS) may consider providing VCS services to

any victim of a restricted patient who requests information. Examples include: a) where the conviction occurred prior to the DVCVA 2004, but the victim has now made contact b) the victim of a non-qualifying offence or sentence length (for prisoners transferred under sections 47 who are subject to restriction directions made under section 49) where the victim has expressed concerns about their safety, or c) to the victims of co-defendants convicted in connection with the same incident. Once the discretion has been exercised to offer such a non-statutory victim contact under the VSC, they should be offered the same service as statutory victims.

2.2 Victim entitlements

An eligible victim is entitled to know:

a) Whenever discharge is being considered by the relevant authority with power to discharge.

b) The victim has the right to make representations to the decision-maker, but not about whether discharge is appropriate. The representations should be about conditions to be added to any conditional discharge or Community Treatment Order (CTO), to protect the victim or the victim's family.

c) The victim is further entitled to know:

- Whether discharge from hospital, or CTO, took place and, if so,
- What conditions, if any, are in place for protection of the victim or the victim's family; and
- When those arrangements end due to change in conditions, recall to hospital or discharge from section.

d) The victim has no statutory right to know:

- When the patient is allowed out of hospital on leave;
- Where the patient is being detained;
- If the patient transfers to another hospital;
- Where the patient must live in the event of discharge.

With a capacitous patient's informed consent, it may be appropriate to seek representation from Victim in other situations. Examples include when a patient is starting leave outside the hospital.

3 PROCEDURE

3.1 The role of liaison with qualifying victim falls with VLO

- The VLO will make contact with the Victims and inform the Single Point of Contact (SPOC) when the Victims have indicated they wish to be involved.
- The SPOC will record the VLO and Victim details on appropriate form in patient Care Records and inform the Responsible Clinician (RC) of VLO details and VLO of RC details.

- The RC will consider Victim representations at appropriate stages of patient journey.

- The statutory requirement is to seek Victim representations prior to considerations for discharge. This should be done sufficiently in advance. All contact with victim must be via the VLO.

- It is desirable to seek representations when discharge destinations are being considered.

3.2. For restricted patients

- Ministry of Justice expects the RC to contact VLO. The Ministry of Justice seeks information about VLO contact in leave applications. The RC will consider whether it is appropriate to seek such representation prior to leave application. Usual confidentiality rules apply.

- At the time of application the RC will consider whether there is any reason why the Victim should not be made aware of leave application and advisements accordingly, for example, if patient is at risk.

- The Mental Health Legislation(MHL) administrator will pass on VLO details to the Tribunal at the time when an application is made. The MHL administrator will advise the VLO when the application is made to Tribunal.

- Any contact with the Victim, for purposes of the DVCVA, should take place via the VLO. The RC may delegate the task of contact with VLO to another appropriate clinician. In most cases this would be the future/current Social Supervisor for purposes of the Mental Health Act.

- The Victim does not have a right to know the patient's whereabouts.

3.3. Unrestricted patients:

- The RC will consider appropriateness of the victim liaison when leave is being considered. This is not a statutory requirement and usual rules of confidentiality apply.

- The RC will inform the VLO when a patient is discharged from section. If an eligible patient is discharged on a CTO, the RC will inform the VLO of any conditions relevant to victim.

- RC will inform the VLO of change in condition related to victim.

- MHL administrator will inform VLO when a patient is discharged from a CTO.

- RC will not communicate directly with the Victims. All communications should take place through the VLO.

- No information about victim liaison should be made available to the patient. It should be stored in appropriate section of the case records.

4 RESPONSIBILITIES

Post(s)	Responsibilities	Ref
All Staff	Professionals should be particularly mindful that some victims of mental disordered patients may also be the patient's family member, carer, friend, or their nearest relative, and may wish to maintain contact with the patient, including visiting them in hospital. The guidance in the Mental Health Act-Code of Practice (chapter 11) relation to enabling contact and visits should be applied equally to these individuals as to other family, friends and carers. • Professionals may need to balance the needs and rights of victims who are also family, friends or carers with their needs and rights as victims and/or to reduce the risk of harm arising from contact with the patient. Such victims may require additional support in order for them to maintain contact, and keep them safe, especially if the victim has additional needs (e.g. due to age or any vulnerability). • There may be a family member, friend and carer	

	who is a victim or for other reasons does not wish to maintain contact or visit, despite a part 3 patient's wish for them to do so. The rights of the individual victim should be protected and maintained in this and, if appropriate, this should be explained to the patient.	
Service, Clinical and Corporate Directors	To be aware of the Victim Liaison policy, to ensure that sufficient staff have adequate knowledge of Victim Liaison and to support staff in working within the policy	
Policy Lead	To provide a single point of contact for the responsible authority for operational and case-related matters To provide case-specific advice or guidance to clinical staff Review and development of Victim Liaison policy and practice Provision of training for those staff who need to work with Victim Liaison Monitoring of performance in relation to Victim Liaison	
Executive Director	Supports the Policy lead in relation to information sharing and confidentiality matters and reports to the Trust Board on performance	
Single Point of Access	**Restricted Cases:** • When the VLU gets in touch, SPOC will record the details of the VLO on the patient care records. • SPOC will direct VLO to the appropriate MHA administrator, who will then ensure that the VLO is provided with the details of RC and the RC is provided details of the VLU. **Unrestricted patients:** • To inform the relevant MHA administrator of the Victim Status.	
Mental Health Legislation Administrators	**Restricted Cases** • To provide the VLO with details of patients RC. • To ensure that RC is made aware of the case VLO. This will be in form of an email to the RC	

	followed up by an entry in appropriate section of care records. • To ensure that Victim details and previous correspondence is transferred if the patient changes hospitals, within and outside the Trust. • To ensure that VLO is made aware of any changes in patient's RC • To pass Victim and VLO details to the Mental Health Tribunal and Hospital Managers. The Tribunal/Hospital Managers may ask for representations from the Victim via the VLO. • To inform the VLO about the outcome of Tribunal. A full decision MUST NOT be passed on. The Victim needs to know whether a Tribunal has discharged or not. • To inform the VLO when a patient is discharged from Hospital or from CTO. • To ensure that Victim and VLO details and previous correspondence is transferred if the patient changes hospitals, within and outside the Trust	
Responsible Clinicians	**Restricted cases:** • To ensure that eligible victim details are recorded on patient Care Records before accepting an admission from prison/other hospital. • To consider obtaining representation from Victims via VLU at appropriate stages of patient progress. This is not a statutory requirement but the MHCS of the Ministry of Justice expects that Victim issues are considered and addressed . • To seek Victim representation well in advance of planned discharge. This should be done when discharge is being considered. It is advisable to seek representations when decision is being made about proposed discharge destination and, in any case, prior to application for discharge. The Victim must not be informed of current location of patient or discharge destination. • Any contact with Victim should be via the Victim Liaison Unit. • To ensure that any discussions about Victim	

	Liaison are appropriately documented in suitable section of patient records. • The RC may appropriately delegate the responsibility to another suitable member of the clinical team. In restricted cases the most appropriate person would be in the future Social Supervisor. RC retains the overall responsibility. **Un-restricted Cases:** • To consider obtaining representation from Victims viaVLO at appropriate stages of patient progress. This may include seeking representation when considering leave. This is not a statutory requirement and usual rules of confidentiality apply. • To seek Victim representation well in advance of planned discharge. This is a statutory requirement. This should be done when discharge is being considered. It is advisable to seek representations when decision is being made about proposed discharge destination and, in any case, prior to discharge. The Victim must not be informed of current location of patient or discharge destination. Victim representations are not binding but need to be considered. • To inform the Victim of any CTO condition that is relevant to the Victim. • To ensure that any discussions about Victim liaison are appropriately documented in relevant sections of the Care Records. • To pass on the Victim representations to the Approved Mental Health Practitioner (AMHP) when a CTO is being considered. • To invite Victim representations if the condition relevant to Victim is being amended/changed. • The RC may appropriately delegate the responsibility to another suitable member of the clinical team, (e.g. care coordinator), but the RC retains overall responsibility. Any contact with the Victim should be made via the MHA administrator.	

	• All contact with the victim must only be made through the Victim Liaison Officer	

5 DEVELOPMENT AND CONSULTATION PROCESS

Consultation summary		
Date policy issued for consultation		July 2021
Number of versions produced for consultation		1
Committees or meetings where this policy was formally discussed		
PDMG		November 2021
Where else presented	**Summary of feedback**	**Actions / Response**

6 REFERENCE DOCUMENTS

Mental Health Act 2007: Guidance on the extension of victims' rights under the Domestic Violence, Crime and Victims Act 2004. Department of Health and Ministry of Justice. 2008.

The full list of offences can be found at:
http://www.legislation.gov.uk/ukpga/2003/44/schedule/15

This list can change as new offences can be added. Please contact the Victims Team in the Ministry of Justice at VCSpolicy@noms.gsi.gov.uk to check if a new offence has been included in the Schedule.

Sexual Offences Act 2003. http://www.legislation.gov.uk/ukpga/2003/42/contents

A full list of offences can be found at Schedule 4 of the Criminal Justice and Court

Services Act 2000:

http://webarchive.nationalarchives.gov.uk/20100416132449/http://opsi.gov.uk/acts/act 2000/ukpga_20000043_en_10

Mental Health Act 1983:Code of Practice:2015.

7 BIBLIOGRAPHY

None

8 GLOSSARY

DVCVA – Domestic Violence, Crime and Victims Act (2004)
MHA – Mental Health Act 2007
VCS – Victim Contract Scheme
VLO – Victim Liaison Officer
SPOC – Single Point of Contact
VLU – Victim Liaison Unit
Part 3 Patients – Patients detained under part 3 of the Mental Health Act
NPS – National Probation Service
RC – Responsible Clinician
CTO – Community Treatment Order

Note: The term Patient instead of service user has been used in this document to maintain consistency with the terms used in the relevant legislation and codes of practice.

9 Audit and Assurance

Element to be monitored	Lead	Tool	Frequency	Reporting Committee
Whether information is being passed on to the VLO as required	Individual consultants	Feedback from the VLO to MAPPA lead	As required	None

10 APPENDICES

Appendix 1 – Equality Impact Assessment

Equality Analysis Screening Form

A word version of this document can be found on the HR support pages on Connect
http://connect/corporate/humanresources/managementsupport/Pages/default.aspx

Title of Proposal	Victim Liaison Policy		
Person Completing this proposal	Dr Sajid Muzaffar	**Role or title**	MAPPA Lead
Division		**Service Area**	
Date Started	27/7/21	**Date completed**	27/7/21
Main purpose and aims of the proposal and how it fits in with the wider strategic aims and objectives of the organisation.			
To meet the legal requirements			
Who will benefit from the proposal?			
All staff, patients and victims of crime			
Impacts on different Personal Protected Characteristics – *Helpful Questions:*			
Does this proposal promote equality of opportunity? *Eliminate discrimination?* *Eliminate harassment?* *Eliminate victimisation?*		*Promote good community relations?* *Promote positive attitudes towards disabled people?* *Consider more favourable treatment of disabled people?* *Promote involvement and consultation?* *Protect and promote human rights?*	
Please click in the relevant impact box or leave blank if you feel there is no particular impact.			

Personal Protected Characteristic	**No/Minimum Impact**	**Negative Impact**	**Positive Impact**	**Please list details or evidence of why there might be a positive, negative or no impact on protected characteristics.**
Age	x			
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				
Disability	x			
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?				
Gender	x			
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?				
Marriage or Civil Partnerships	x			
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 partnerships?				
Pregnancy or Maternity	x			
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?				
Race or Ethnicity	x			
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?				
Religion or Belief	x			
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?				
Sexual Orientation	x			
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?				
Transgender or Gender Reassignment	x			

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?				
Human Rights	x			
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?				
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)				

	Yes	**No**		
What do you consider the level of negative impact to be?	**High Impact**	**Medium Impact**	**Low Impact**	**No Impact**
				x

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.

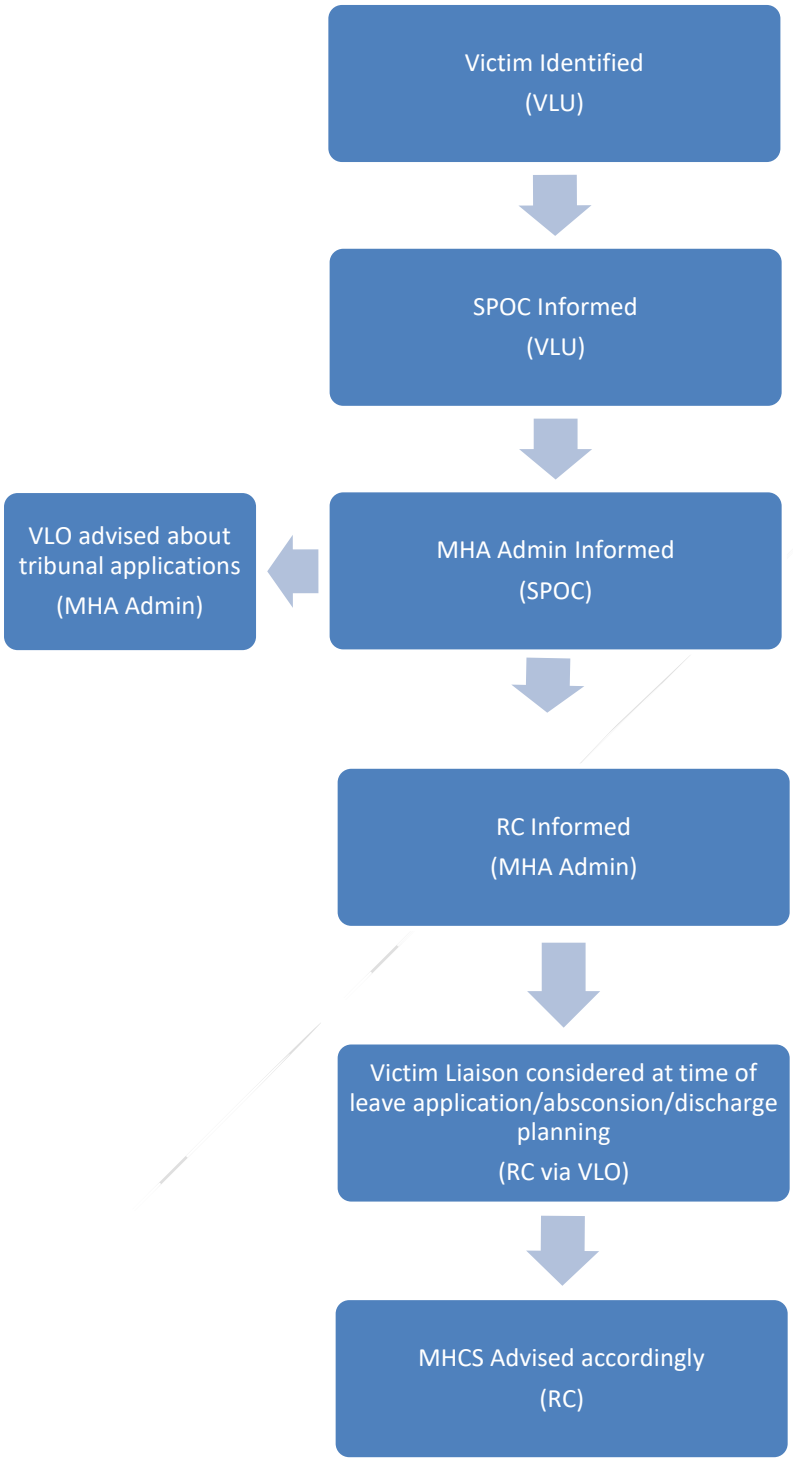
If the proposal does not have a negative impact or the impact is considered low, reasonable or justifiable, then please complete the rest of the form below with any required redial actions, and forward to the **Equality and Diversity Lead.**

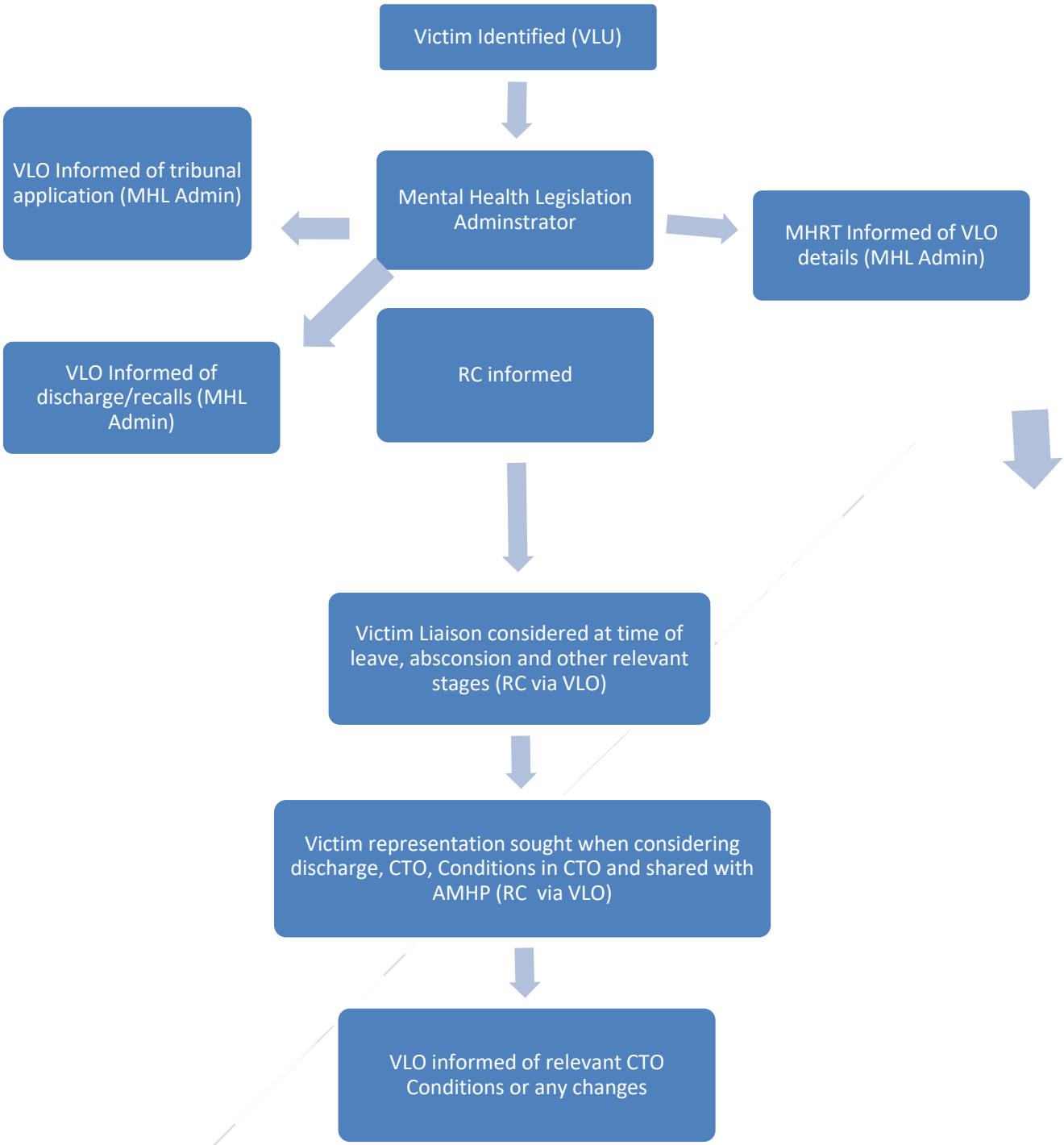
Action Planning:
How could you minimise or remove any negative impact identified even if this is of low significance?
n/a
How will any impact or planned actions be monitored and reviewed?
n/a
How will you promote equal opportunity and advance equality by sharing good practice to have a positive impact other people as a result of their personal protected characteristic.
n/a

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 **bsmhft.hr@nhs.net** . 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

Flow Charts 1(Restricted cases) and 2 (Unrestricted cases)




Victim Identified (VLU)
VLO Informed of tribunal application (MHL Admin)
Mental Health Legislation Adminstrator
MHRT Informed of VLO details (MHL Admin)
VLO Informed of discharge/recalls (MHL Admin)
RC informed
Victim Liaison considered at time of leave, absconsion and other relevant stages (RC via VLO)
Victim representation sought when considering discharge, CTO, Conditions in CTO and shared with AMHP (RC via VLO)
VLO informed of relevant CTO Conditions or any changes

[iii] The full list of offences can be found at: http://www.legislation.gov.uk/ukpga/2003/44/schedule/15. This list can change as new offences can be added. Please contact the Victims Team in the Ministry of Justice at VCSpolicy@noms.gsi.gov.uk to check if a new offence has been included in the Schedule.

[iv] Sexual Offences Act 2003. **http://www.legislation.gov.uk/ukpga/2003/42/contents**

[v] A full list of offences can be found at Schedule 4 of the Criminal Justice and Court Services Act 2000: **http://webarchive.nationalarchives.gov.uk/20100416132449/http://opsi.gov.uk/acts/acts2000/ukpga_20000043_en_10**