

Standard Operating Procedure 8 (SOP 8)

Administration Process for the Mental Health Act

Why we have a procedure?

To explain the administrative process in place to support the statutory requirements of the Mental Health Act 1983 (amended 2007) and associated Mental Health Act Code of Practice 2015 and the role of the Mental Health Act Office.

The administrative process of the Mental Health Act is co-ordinated by the Mental Health Act Office's administrative staff.

The application of the Mental Health Act is conferred upon 'Hospital Managers'. In England, NHS hospitals are managed by NHS trusts and NHS foundation trusts. For these hospitals, the trusts themselves are defined as the 'hospital managers' for the purposes of the Act.

The exception is the power to discharge patients from detention or CTOs, which is delegated to managers' panels made up of 'associate hospital managers' appointed specifically for this purpose, who are not officers or employees of the Trust.

What overarching policy the procedure links to? Mental Health Act Policy

Which services of the trust does this apply to? **Where** is it in operation?

Group	Inpatients	Community	Locations
Mental Health Services	✓	✓	all
Learning Disabilities Services	✓	✓	all
Children and Young People Services	x	✓	all
Corporate services	✓	✓	all

Who does the procedure apply to?

- Mental Health Act Office administrative staff
- Ward Managers and qualified nursing staff
- Associate Hospital Managers

When should the procedure be applied?

When completing all administrative processes in support of the application of The Mental Health Act 1983 (amended 2007) and associated Mental Health Act Code of Practice 2015.

How to carry out this procedure

The Mental Health Act Office Administration Team is based in Trust Headquarters at:

Delta House, Greets Green Road, West Bromwich West Midlands, B70 9PL.

The Mental Health Act Office staff regularly visit all inpatient areas in order to expedite any administration issues. Each ward is issued with a copy of the Mental Health Act Code of Practice. There is an identified depository on each ward for the safe keeping of documentation relating to a patient's detention order as follows:

Learning Disabilities Inpatient Areas:

- In the Reception Office at the Gerry Simon Clinic
- In the office at Penrose House
- In the office at Larches Ward

Adult and Old Adult Psychiatry Inpatient Areas:

- In the blue bag on each of the wards/houses
- In the Reception office for Macarthur Centre
- In the Ward Clerks office at Chance Ward

Mental Health Act Files

Mental Health Act Office staff will prepare a Mental Health Act file for each detained patient. They will retain the file for holding the original documents of a patient's detention order. The ward will be issued with a front sheet with the patient's name, ward and details of the detention order, together with a set of seven-tabbed index dividers (pink) to reflect the seven different types of documents. They are:

- Correspondence
- Section Papers
- Patients' Rights
- Consent to Treatment
- Section 17 Leave
- Hospital Managers Hearings/ Outcomes
- Tribunal Hearings/ Outcomes

It is the responsibility of the Ward Manager to ensure:

1. Each document relating to a patient's detention order is photocopied and the copy filed in the appropriate section of the file
2. The Mental Health Act file is maintained and stored in an appropriate manner
3. Sufficient stocks of Mental Health Act forms are retained on the ward in an organised and efficient way
4. A designated area is identified for the safe keeping of a document "holder" into which any new original documents relating to the patient's detention order will be placed for collection by Mental Health Act Office staff.

Implementation of a Section

When a patient is detained under the Mental Health Act 1983, either from an informal status or directly from the community, the nurse in charge will ensure:

- ✓ The appropriate Mental Health Act documentation has been completed
- ✓ The Section Papers are initially scrutinised, using the Nursing section Papers Checklist, ensuring that the Section is legal and that any errors are rectified by the person who signed the form if that person is still available
- ✓ The completion of form H3, signed on behalf of the Hospital Managers, for the receipt of papers and formal admission of the patient
- ✓ The completion of Form MHA1 – recording the patient's details

- ✓ The patient is read their rights at the earliest opportunity depending on how well the patient is at that time
- ✓ Inform the Mental Health Act Office of the formal admission as soon as practical, i.e. that day, if out of hours by leaving a message on the answering machine
- ✓ All relevant forms are photocopied and the originals left in the document holder within the designated area of their ward, for collection by the Mental Health Act Office staff
- ✓ File copies of section papers in the patient's ward file under 'Section papers'.

Scrutiny of Section Papers

Mental Health Act Office staff, acting on behalf of the Hospital Managers, are responsible for the further scrutiny of the Section papers, obtaining amendments where necessary within statutory time limits and facilitating medical scrutiny by the Medical Director or their nominated deputy.

Consent to Treatment

Medication of a mental disorder can be administered to a patient under a detention order for a period of up to three months, with the exception of ECT or for those patients on Section 4, 5(4), 5(2), 35, 135 or 136.

It is the responsibility of the Mental Health Act Office staff to ensure that shortly before the expiry of the three month period, the patient's Responsible Clinician is informed of the consent to treatment date.

The Responsible Clinician will:

- Interview and assess the patient's capability to give valid consent
- Record in the patient's health records the assessment and outcome of the interview
- Complete form T2, if the patient is giving valid consent to the proposed treatment plan. The form will be left with the nurse in charge of the ward
- Inform the Nurse in Charge of the ward and the Mental Health Act Office if the patient is not consenting and a Second Opinion Approved Doctor is required
- A Second Opinion Approved Doctor request form is completed and e-mailed/faxed to the Mental Health Act Office

Second Opinion

When a Second Opinion Approved Doctor is required, the Ward manager will:

- Prepare for the visit by the Second Opinion Approved Doctor
- File copies of Form T2 or T3 on the patient's medication chart and the patient's ward file and make the original available for collection by Mental Health Act Office staff

Electroconvulsive therapy (ECT)

ECT treatment requires consent by the patient at any stage of a detention order. The Responsible Clinician or the Second Opinion Approved Doctor will carry out the consent procedure in order to authorise the treatment of ECT. A copy of the form will be sent to the ECT Department. The original document should be placed in the bag/box for the Mental Health Act office to collect.

Emergency Treatment – Section 62

Section 62 applies to urgent situations where treatment is immediately required, the patient is incapable of giving consent and a second opinion is not available. Section 62 can only be applied by a Responsible Clinician who will complete the appropriate form. Ward staff will notify the Mental Health Office whenever Section 62 is applied.

Compliance with the Treatment Plan

It is the responsibility of the Ward Manager to ensure:

- That the treatment plan of any detained patient, who has passed the three month period, is strictly adhered to because otherwise we would be breaking the law and not adhering to the MHA
- That no additional treatment for a mental disorder will be given without adhering to the above rules – the Capacity and Consent rules and completion of correct documentation
- That should a patient, originally consenting, withdraw his/her consent the above rules will be adhered to - Consent to Treatment rules, patient withdrawing consent needs to be assessed and request a SOAD

Ward Leave – Section 17

The Responsible Clinician is responsible for granting specific leave or discretionary leave to a patient and completing the appropriate paperwork. All Section 17 leave Forms will be photocopied and the procedure for filing and collection carried out. Ward staff will notify the nearest relative and care-coordinator of the section 17 leave arrangements.

Absent Without Leave – Section 18

In the event of a detained patient absconding i.e. leaving the ward without permission or failing to return from authorised leave, nursing staff will notify the Mental Health Act Office at the earliest opportunity.

Services that are designated as low, medium or high security are required to notify the Care Quality Commission (CQC) of any unauthorised absence of a person detained under the Mental Health Act 1983 (amended 2007), and of the return of persons from unauthorised absences. Therefore, if a patient absconds from Gerry Simon Clinic at Health Lane Hospital, which is a low secure forensic unit, the CQC must be notified using their notification form.

Appeals

Mental Health Tribunal

In England, a mental health tribunal (sometimes referred to as a First-tier Tribunal), is an independent specialist body empowered by law to safeguard the rights of persons subject to the Mental Health Act 1983 (amended 2007). It is an independent panel of three people, a judge who is in charge of the tribunal, a tribunal doctor and a specialist lay member who has detailed knowledge of the Mental Health Act (amended 2007).

When a patient informs ward staff of their intention to exercise their right of appeal to a mental health tribunal, they will provide assistance to the patient as required, to complete the application form or any additional letter of appeal. The mental Health Act Office will ensure that he/she is within their right to appeal, and that it is being submitted within the statutory time limit.

Ward staff will also provide a list of Solicitors approved by the Mental Health Act Law Society, for the convenience of the patient should he/she wish to be legally represented. A list of approved solicitors is retained on the ward. They will forward the application form to the Mental Health Act Office as soon as possible, unless the patient chooses to send it directly to the mental health tribunal office, in which case, ward staff should inform the Mental Health Act Office of this as soon as possible.

Hospital Managers' Review

A Hospital Managers' Hearing may take place at any time at an associate hospital manager's discretion but they **must** hold a review:

- a) When the Responsible Clinician submits a report renewing the patient's detention. (Section 20) or extending a Community Treatment Order (Section 20A)
- b) When the Responsible Clinician makes a report to the Managers barring a discharge made by a Nearest Relative

The Managers must **consider** holding a review:

- b) When the patient requests one (unless a hearing has recently taken place and the Manager's view is that the circumstances have not altered materially)

If a patient chooses to exercise their right of appeal to the Hospital Managers, nursing staff will provide assistance to the patient as required to complete an application form and any additional letter of appeal. On completion they will forward the application to the Mental Health Act Office as soon as possible, who will make the necessary arrangements for the hearing to proceed.

Transfer of a Detained Patient – Section 19

The transfer of a detained patient to another hospital can fall into one of three categories, each requiring different administration procedures:

- a) Transfer to an external acute hospital providing services for a patient's physical disorder will be authorised by Section 17, Leave of Absence
- b) Transfer to external mental health hospital will be authorised by the Mental Health Act Form H4
- c) Transfer to another internal hospital/unit providing mental health services managed by our own Trust will require an in-house transfer form

Ward staff should notify the Mental Health Act Office as soon as possible of any proposed transfer.

Death of a Detained Patient

In the event of the death of a detained patient, the Ward Manager will notify the Responsible Clinician and Mental Health Act Office as soon as possible. The Mental Health Act Office will send a statutory form to the Responsible Clinician to complete advising the Care Quality Commission of the death of the patient. Once completed the form should be return to the Mental Health Act office, who will submit the form to the Care Quality Commission.

Discharge of a Detained Patient – Section 23

Where a Responsible Clinician decides to discharge a detained patient before the official expiry date, they will complete the appropriate Section 23 discharge form. The Ward Manager or nurse in charge will accept receipt of the discharge form, on behalf of the Hospital Managers, by signing and stating the time and date of receipt of the form. The ward should inform the Mental Health Act office as soon as possible and scan/fax the form to them.

Renewal of Authority to Detain – Section 20

The Mental Health Act Office will notify the Responsible Clinician in good time before the expiry date of a detention order to ascertain if the patient's detention is to be extended or not. The RC will assess the patient to decide whether the criteria for renewal is present and complete Form H5 if it is decided that the patient's detention order is to be renewed.

The Mental Health Act Office should be notified of the decision as they will make the appropriate arrangements for a Hospital Managers' Hearing to decide whether the patient's detention will be renewed or not.

After Care – Section 117

All patients, who have been detained under Section 3, 37, 47 or 48 are entitled to receive after-care under Section 117 of the Mental Health Act ((amended 2007). It is the responsibility of the Ward Manager and Responsible Clinician to ensure that a meeting takes place in order to arrange the patient's after-care plan well before the patient is discharged

Community Treatment Order – Section 17A

A Community Treatment Order provides a framework for the management of patient care within the community and gives the Responsible Clinician the power to recall the patient to hospital for treatment if necessary. Only patients who are detained in hospital under section 3 or unrestricted part 3 patients can be considered for a Community Treatment Order.

The decision as to whether a Community Treatment Order application should be made must be taken by the RC and requires the agreement of an Approved Mental Health Professional.

Closure of Mental Health Act Files

Following the discharge of a detention order the files may be closed.

Ward File

The Ward Clerk will ensure:

That all copy documents relating to the section are filed within the patients folder, under MHA 1983 and remove the pink MHA dividers from the file and place them within the designated area of the ward, for collection by the Mental Health Act Office staff

Original File

Mental Health Act Office staff will retain the original file for 5 years within the confines of the office for further reference as necessary. Files over five years will be retained in the Trust's central archive store

Where do I go for further advice or information?

Mental Health Act Office - 0121 612 8035

Training

Training in the understanding and implementation of the Mental Health Act (amended 2007) and the associated Code of Practice (2015) is included in mandatory training for those staff where it has been identified by the Trust as essential to their role and responsibilities.

Monitoring / Review of this Procedure

In the event of planned change in the process(es) described within this document or an incident involving the described process(es) within the review cycle, this SOP will be reviewed and revised as necessary to maintain its accuracy and effectiveness.

Standard Operating Procedure Details

Unique Identifier for this SOP is	BCPFT-MHA-SOP-02-8
State if SOP is New or Revised	Revised
Policy Category	Mental Health Act
Executive Director whose portfolio this SOP comes under	Medical Director
Policy Lead/Author Job titles only	Mental Health Act Administration Manager
Committee/Group Responsible for Approval of this SOP	Mental Health Act Legislation Forum
Month/year consultation process completed	N/A
Month/year SOP was approved	November 2019
Next review due	November 2022
Disclosure Status	'B' can be disclosed to patients and the public

Review and Amendment History

Version	Date	Description of Change
2.2	Oct 2019	Minor changes to mirror update of main policy
2.1	Jun 2018	Full review minor changes
2.0	Oct 2016	Full review and new SOP format
1.0	Jul 2013	New SOP for BCPFT