|  |  |
| --- | --- |
|  **Document name:** | Functions of Hospital Managers under the Mental Health Act 1983  |
| **Portfolio** | Legal Services |
| **Document type:** | Mental Health Act 1983 Policy |
| **Staff group to whom it applies:** | All staff within the Trust |
| **Distribution** | The whole of the Trust |
| **How to access:** | Intranet and internet  |
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| **Approved by:** | Executive Management Team on 24 November 2022 |
| **Developed by:** | Assistant Director Legal Services |
| **Director leads:** | Chief medical officer |
| **Contact for advice:** | Legal services - 01924 316000Mental Health Act administrators |

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# Introduction

The Hospital Managers for the purpose of the Mental Health Act 1983 (Hereafter referred to as The Act) are the NHS Foundation Trust as a body. “Managers” does not mean the management team of the hospital.

It is the Hospital Managers who have the authority to detain patients under the Act. They have the primary responsibility for ensuring that the requirements of the Act are followed. This also includes patients subject to a Community Treatment Order (CTO).

# Duties of Hospital Managers

On behalf of the Trust, “Hospital Managers” have important statutory powers, responsibilities and duties concerning detained and CTO patients. Excluding the function of discharging patients/reviewing detention orders, Managers may delegate many of these statutory tasks to Officers. These include:-

* Admission
* Scrutiny and rectification of documents
* Transfer
* Giving of information
* Duties in respect of victims of crime
* Patient’s correspondence
* Duty to refer cases to Tribunals
* References by the Secretary of State for Health
* Hospital Accommodation for children and young people

# Managers responsibilities which can be delegated to officers

For most part, Hospital Managers do not have to perform their functions personally (e.g by decision of the Board of an NHS Foundation Trust), but may delegate them to officers (i.e members of their staff) and in some cases to other people.

Hospital Managers functions under Parts 2, 3 and 6 of the Act can be delegated in accordance with the Regulations, or, in the case of discharge decisions under Section 23 in accordance with Section 23 itself. Hospital Managers functions in respect of patients correspondence under Section 134 of the Act may be delegated in accordance with Regulation 29.

Hospital Managers may delegate their other functions under the Act in any way they can normally delegate their functions - which will depend on the constitution of the body concerned and (in the case of NHS Trusts and Independent Hospitals) the relevant NHS legislation. (See Mental Health Act Reference Guide 1.33 – 1.35)

## Admission:

 It is the Hospital Managers responsibility to ensure that the authority for detaining patients or making patients subject to CTO is valid and that any relevant documents are in order.

Trust staff who have attended the Trust’s training on receipt and scrutiny of Mental Health Act documents will then be authorised to receive documents on behalf of the Hospital Managers

For guidance on receipt, scrutiny and rectification of documents see Code of Practice chapter 35. The Trust checklists used to support receipt and scrutiny of documents are available on the Trust MHA intranet pages in the Forms section

Where a patient is admitted under the Act on the basis of an application by their Nearest Relative, the Hospital Managers must request the relevant local social services authority (LSSA) to provide them with a social circumstances report as required by section 14 of the Act and the Mental Health Act Reference Guide 9.25 – 9.26

## Transfer between hospitals

The transfer of any detained patient to another hospital under section 19 of the Act, must be fully justified.

For guidance please refer to Mental Health Act Code of Practice 37.16 – 37.27

## Transfers to Guardianship

See relevant local authority guidance:

* Mental Health Act Code of Practice 37.28 – 37.29
* Mental Health Act Reference Guide 10.34 – 10.38 and 28.15 – 28.45

## Transfer and assignment of responsibility for patients subject to CTO

For guidance please see :

* Code of Practice 37.30 – 37.31
* Mental Health Act Reference Guide 26.7 – 26.8 and 26.126 – 26.133.

## Information for Patients and Relatives

Hospital Managers are required to arrange for detained patients, patients subject to CTO and (where relevant) their Nearest Relatives to be given important information about the way the Act works and their rights.

For guidance see:

* Trust Policy; Mental Health Act – Section 132 (patients’ rights) Policy
* Mental Health Act Code of Practice Chapter 4
* Mental Health Act Reference Guide Chapters 9 (9.10 – 9.19) and 10 (10.26 – 10.28)

## Duties in respect of victims of crime

The Domestic Violence, Crime and Victims Act 2004 places a number of duties on Hospital Managers, in relation to certain Part 3 patients who have committed sexual or violent crimes.

For guidance see:

* Mental Health Act Code of Practice 37.34 – 37.36 & 40.16 – 40.20
* Sections 35 – 45 of the Domestic Violence, Crime and Victims Act 2004.
* The Code of Practice for Victims of Crime, October 2015
* Guidance for Clinicians – Duties to Victims under the Domestic Violence, Crime and victims Act 2004, (Ministry of Justice 2009)

## Patients’ Correspondence

For guidance please see:

* Mental Health Act Code of Practice 37.37 – 37.38
* Mental Health Act Reference Guide Chapter 5.
* Trust policy; Mental Health Act – Section 134 withholding patients’ mail

## Duty to refer cases to Tribunals

Hospital Managers are under a duty to refer a patient’s case to the Tribunal in the circumstances set out in Section 68 of the Act.

For guidance see:

* Mental Health Act Code of Practice 37.39 – 37.43
* Mental Health Act Reference Guide 6.42 – 6.54.

## References by the Secretary of State for Health

For guidance please see:

* Mental Health Act Code of Practice 37.44 – 37.46
* Mental Health Act Reference Guide 6.55 – 6.63.

## Hospital Accommodation for Children and Young People

For Guidance Please see:

* Mental Health Act Code of Practice 37.47
* Mental Health Act Reference Guide 9.21 – 9.24, 12.5 – 12.8
* Trust Standard operating Procedure; Admitting young people to adult wards

# Responsibilities of Hospital Managers which cannot be delegated

See chapter 38 of the Mental Health Act Code of Practice.

Under Section 23 of the Mental Health Act 1983 a patient may apply for a review of their detention or community treatment order. In addition to this the Hospital Managers must undertake a review following the renewal or extension of a detention or community treatment order. (See appendix A for procedure)

The Hospital Managers for the purpose of discharging their functions under section 23 of the Mental Health Act are the Non-Executive Directors and Independent Associate Hospital Managers. These managers may **NOT** be employed by the Trust

|  |
| --- |
| Under Section 23 of the Act, Hospital Managers have a duty to determine whether a patient can still be detained, or can be discharged. A detained patient shall not be discharged by Hospital Managers from a section of the Mental Health Act unless and until a formal review has been held with full assistance from the appropriate health professionals. It is necessary to ensure that the patient’s Responsible Clinician (RC) and relevant professionals are actively and positively questioned by the Hospital Managers and that the patient or their representative also have the same opportunity to do so prior to a decision being made. Hospital Managers:**May** undertake a review of whether or not a patient should be discharged at any time at their discretion;**MUST** undertake a review if the patients Responsible Clinician submits to them a report under Section 20/20A of the Act renewing detention or extending a Community Treatment Order (CTO);**Should** consider holding a review when they receive a request from (or on behalf of) a patient; and **Should** consider holding a review when the Responsible Clinician makes a report to them under Section 25 barring an order by the nearest relative to discharge a patient.In the last two cases, when deciding whether or not to consider the case, Hospital Managers are entitled to take into account whether the Tribunal has recently considered the patients case or is due to do so in the near future.It is desirable that the Hospital Managers consider the report made under Section 20/20A before the current period of detention or CTO ends. |

# Definitions

|  |  |
| --- | --- |
| Hospital Manger | The NHS Foundation Trust as a body, through officers authorised to undertake delegated duties on its behalf. |
| Mental Health Act Code of Practice | Statutory guidance in the application of the Mental Health Act 1983 |
| The Act | Mental Health Act 1983 |
| Mental Health Act Reference Guide | Statutory guidance in the application of the Mental Health Act 1983 |
| Regulations | Secondary legislation supporting the Mental Health Act 1983 |

# Duties

* 1. Trust Board is responsible for approving the policy.
	2. The Hospital Managers are responsible for approving the contents and duties of the policy as they relate to the Act. They are responsible for monitoring the adherence and effectiveness of the policy and advising when the policy needs reviewing.
	3. The Lead Director is responsible for ensuring that the policy has been developed in line with the trust policy for the development, approval and dissemination of policy and procedural documents.
	4. General managers, clinical leads and team managers are responsible for ensuring that staff in their area of responsibility are aware of their responsibilities under the policy and that they follow the policy.
	5. Medical, nursing and other clinical staff are responsible for ensuring that their actions comply with the policy.
	6. Mental Health Act Office staff are responsible for advising on the practice related to the policy insofar as it is governed by the Mental Health Act 1983, its supporting regulations and guidance.

# Principles

This policy identifies the duties of the Hospital Managers (as defined under the MHA). It sets out the scheme of delegation for these duties to officers in the Trust (appendix B)

# Equality impact assessment

The policy has an equality impact assessment, (appendix C). There were no groups on whom the policy had a more negative impact than others.

# Dissemination and implementation arrangements

The policy will be disseminated through the trust information channels and through professional groups.

# Process for monitoring compliance and effectiveness

The Hospital Managers will monitor the arrangements through the Mental Health Act Committee. They will be supported by the Mental Health Act Office.

# Review and revision arrangements

The policy will be reviewed by the Assistant Director, Legal Services on behalf of the Hospital Managers and accountable director by the review date, or earlier if required. Previous copies will be archived in line with trust procedures.

# References

Mental Health Act 1983

Department of Health (2015) Mental Health Act 1983: Code of Practice, TSO

Department of Health (2015) Mental Health Act 1983: Reference Guide, TSO

National Offender Management Service (2015) Mental Health Casework Section: Section 17 – Leave of Absence

# Associated Documents

Ministry of Justice (2015) Code of Practice for Victims of Crime HMSO

Department of Health (2015) Mental Health Act 1983: Code of Practice TSO

Mental Health Act 1983 HMSO

Mental Health (Hospital, Guardianship and Treatment) (England) Regulations 2008

Domestic Violence, Crime and Victims Act 2004 HMSO (amended 2012)

Ministry of Justice (2009) Duties to victims under the Domestic Violence, Crime and Victims Act 2004: Guidance for clinicians Ministry of Justice

# Appendix A

## Hospital Managers Review of Detention Flowchart

|  |  |  |
| --- | --- | --- |
|  | REVIEW |  |
|  |  |  |  |
| Patient appeal/ Section Renewal/Nearest Relative Discharge |
|  |  |  |  |
| Written reports to panel:Responsible ClinicianSocial CircumstancesNursing |
|  |  |  |  |
| Panel meets:Patient and Representative/Advocate or IMCA if one appointedResponsible ClinicianSocial Worker/Care Co-ordinatorNurseRelative/carer\*  Other professionals as appropriate\* |
|  |  |  |  |
| Panel reach decision |
|  |  |
|  |  |  |  |  |
| Detention criteria met |  | Detention criteria not met |
|  |  |  |  |  |
| Decision document raised |  | Decision document raised |
|  |  |  |  |  |
| END |  | END |

\*If the patient agrees

# Appendix B

## Scheme of delegation table – referenced to Code of Practice, Mental Health Regulations (2008) and Mental Health Act Reference Guide.

|  |  |  |
| --- | --- | --- |
| **Duty** | **Delegation within the trust** | **Ref** |
| Scheme of delegation must be approved by a resolution of the trust |   | CoP 37.9RG 31.8, 31.12, 31.13, 31.14, 31.15, 31.16, 31.17 |
| Governance arrangements to monitor the functions exercised on behalf of the HM's |  MHA committee | CoP37.11 |
| Receipt of detention papers | Any registered professional (usually a nurse) who has received Trust required training on the receipt of MHA documentation MHA administration staff | CoP 37.12MHR s3(2), s3(3), s3(4), s3(5), s4(1), s4(4), s4(5), s6(8)dRG 31.2Chapter 31 COP |
| Scrutiny and rectification of detention papers | MHA administration staff | CoP 37.12MHR s4(3), s6(1), s6(2), s6(3), s14, s15, s16, s17RG 31.12CoP chapter 31 |
| Notifying LA when patient is a child or young person | Nursing staff | CoP 37.12 |
| Getting a copy of the AMHP report | MHA administration staff | CoP 37.12 |
| Notify LA when social circumstance report is required when there is an application by nearest relative | MHA administration staff | CoP 37.13 |
| Right to an IMHA and how to get it | Registered nurseResponsible Clinician | CoP 37.14RG 31.13 |
| Ask an IMHA to help patient with rights if they lack capacity or do not understand any aspect of their rights  | Registered nurse, nearest relative, Responsible Clinician or Approved Mental Health Professional (AMHP) | CoP 37.15 |
| Authorise the transfer of patients to another hospital (with MoJ approval if required). | Bed managerRegistered nurse (trained in the receipt of MHA documentationResponsible ClinicianMHA administration staff | CoP 37.16MHR s7(3), s7(4), s9, s11, s12 |
| Transfer into guardianship | Responsible ClinicianRegistered nurse (trained in the receipt of MHA documentation)MHA administration staff | CoP 37.28MHR s8(4) |
| S132, 132A, 133 and 130D rights | Registered nurseCare CoordinatorMHA administration staffResponsible Clinician | CoP 37.14, 37.32. 37.33RG 31.4 |
| Communication with victims of crime in relation to certain unrestricted part 3 patients who have committed sexual or violent crimes | Responsible ClinicianForensic social worker | CoP 37.34MHR s20  |
| Witholding patient's outgoing post under s134 | Responsible ClinicianNurse in chargeMHA administration staff | CoP 37.37RG 31.7 |
| Referral to tribunal | MHA administration staff | CoP 37.39 |
| Duty to ensure that children & young people aged under 18 receiving in-patient care for mental disorder are accommodated in an environment that is suitable for their age (s131A) | General Manger and on-call managerDirector of Nursing | CoP 37.47 |
| Power to discharge patient (s23) | Responsible ClinicianIndependent Associate Hospital Managers panelNearest Relative |  MHA s.23CoP 38.3-38.10 |
| Making a record or report under MHA or MHR | Responsible ClinicianRegistered nurseRegistered health care professionalMHA administration staff | MHR s3(10)RG 31.12 |
| Transfer of RC responsibility | Responsible ClinicianRegistered Nurse (trained in receipt of MHA documents)MHA administration staff | MHR s17 |

MHR = The Mental Health (Hospital Guardianship and Treatment) (England) Regulations 2008

RG - Mental Health Act Reference Guide (2015)

COP – Mental Health Act Code of Practice (2015)

#

# Appendix C

## Equality Impact Assessment Tool

**Date of EIA: 2nd August 2022 Review Date:**

**Completed By: Yvonne French**

|  |  |  |
| --- | --- | --- |
|  | **QUESTIONS** | **ANSWERS AND ACTIONS** |
| **1** | **What is being assessed?**Prompt: what is the function of this document (new or revised) | Functions of Hospital Managers under the Mental Health Act 1983  |
| **2** | **Description of the document**Prompt: What is the aim of this document | **The overall aim of the document is to describe the Trust approach to the use of Hospital Managers under Mental Health Act 1983.****To provide guidance to clinicians on its application****To provided guidance to MHA administrators re the Hospital Managers and their position within the Trust and its legal framework** |
| **3** | **Lead contact person for the Equality Impact Assessment** | **Yvonne French: – Assistant Director Legal Services**  |
| **4** | **Who else is involved in undertaking this Equality Impact Assessment** | **Mental Health Act Administration manager (Trust Wide)****Clinical Legislation Manager****Equality and involvement manager** |
| **5** | **Sources of information used to identify barriers etc**Prompts: service delivery equality data – refer to equality dashboards ([BI Reporting - Home (sharepoint.com)](https://swyt.sharepoint.com/sites/BIReporting) satisfaction surveys, complaints, local demographics, national or local research & statistics, anecdotal. Contact InvolvingPeople@swyt.nhs.uk for insight**What does your research tell you about the impact your proposal will have on the following equality groups?** | **Data used was from the quarterly MHA performance report which is presented to the Mental Health Act Committee on a quarterly basis.****The data covers the period April 2021 – March 2022.****information contained in the quarterly reports regarding its use and any complaints that have been received regarding ther Hospital Managers.****Some data has been used from the national census 2011 and from the Trust BI reporting.** * The Trust split of 77.9% female to 22.1% male is reflected approximately across most areas, except for Medical Staff (36%/64%). As in previous years, female staff make up over three quarters of Trust staff. The Hospital Manager ratio is 46.6% male to 53.4% female.
* As in previous years, the highest number of Trust staff fall in the age bands 40-49 and 50-59 with over 55% of the total staff being between 40 and 59. Just over 42% of medical staff are between 40 and 49. Support Services have the highest percentage of staff in the 60-69 age bands with 14% (102) being 60 or over. The vast majority of the Hospital Managers (80%) are over 65.
* The data shows that 6.1% of our staff consider themselves to have a disability, the same figure as last year. The total number of staff is 266, this is an increase of 11 since last year. None of the Hospital Managers have declared a disability
* The Trusts staff profile has a larger White British representation than the local demographic of the people that it serves collectively. Trust wide, 90% of the total staff in post are white British which is similar to previous years and equates to an over-representation of 1.3% (last year 1.1%). Mixed race staff are underrepresented by 0.2%, Chinese staff are over-represented by 0.2%, Black staff are over-represented by 1.6% and South Asian staff are under-represented by 3.2%. However, the Trust’s local demographic has large variation in BAME representation and there is a significant under-representation of South Asian staff in Kirklees/Calderdale (exact figures not available due to mixed teams) Only 2 of the 15 Hospital Managers are from ethnic minority backgrounds (13.3%)
* The number of staff who have not stated their religious belief (Unknown) has decreased slightly from 2018 (23%) to just below 21% currently. Staff reported as 48% Christianity, 3%Islam, 12% other and 17% Atheism.
* There has been a significant increase in the number of staff reporting their religion and sexual orientation. Currently 83% of staff have provided data indicating their sexual orientation, which is a slight improvement on last year’s figures.
 |
| **5a** | **Disability Groups:**Prompt: Learning Disabilities orDifficulties, Physical, Visual, Hearing disabilities and people with long term conditions such Diabetes, Cancer, Stroke, Heart Disease etc. Accessible information standard | **The Hospital Managers are reflected in the MHA Code of Practice and is prescribed in law and does not discriminate on grounds of disability.****However, because the Hospital Managers interface with people who may have a disability it is crucial that all efforts are made to have effective communication with the person when assessing for mental disorder to eliminate any unintentional discrimination.**

|  |  |
| --- | --- |
| **Applied filters: Service Type is Inpatient**  |  |
| **Disability** | **All Patients****2021/22** | **All Patients** **2022/23** |
| Disability NOS | **118** | **37** |
| Disability status not given - patient refused | **118** | **50** |
| Not disabled | **1473** | **577** |
| Not Recorded | **786** | **252** |
| Registered disabled | **130** | **57** |

**Data Gathered on 18/07/2022 from BI Reporting – Home (sharepoint.com)** |
|  | **QUESTIONS** | **ANSWERS AND ACTIONS** |
| **5b** | **Gender:**Prompt: Female & Male issues should be considered | **Gender distinction is not discriminated for or against regarding the appointment of Hospital Managers**

|  |  |
| --- | --- |
| **Applied filters: Service Type is Inpatient** |  |
| **Gender** | **All Patients****2021/22** | **All Patients****2022/23** |
| **Male** | **1527** | **581** |
| **Female** | **1066** | **389** |
| **I** | **1** |  |
| **U** | **1** | **3** |

**Data Gathered on 18/07/2022 from BI Reporting – Home (sharepoint.com)** |
| **5c** | **Age:**Prompt: Older people & Young People issues should be considered | **The appointment and deployment of Hospital Managers is not broken down into age groups and therefore unable to provide any analysis or conclusion.****The age of the service users is also not a discriminating factor.**

|  |  |
| --- | --- |
| **Applied filters: Service Type is Inpatient** |  |
| **Age Band**  | **All Patients****2021/22** | **All Patients** **2022/23** |
| **Under 16** | **3** |  |
| **16-17** | **29** | **1** |
| **18-29** | **447** | **184** |
| **30-39** | **532** | **180** |
| **40-49** | **384** | **165** |
| **50-59** | **498** | **135** |
| **60-69** | **339** | **126** |
| **70-79** | **301** | **124** |
| **80-89** | **145** | **50** |
| **90+** | **19** | **8** |

**Data Gathered on 18/07/2022 from BI Reporting – Home (sharepoint.com)** |
| **5d** | **Sexual Orientation:**Prompt: Heterosexual, Bisexual, Gay, Lesbian groups are included in this Category | **The use of Hospital Managers is not reported against in relation to sexual orientation.****This policy does not affect any group unfavourably.**

|  |  |
| --- | --- |
| **Applied filters: Service Type is Inpatient** |  |
| **Sexual Orientation** | **All Patients****2021/22** | **All Patients****2022/23** |
| Heterosexual | **1870** | **270** |
| Not Recorded | **583** | **202** |
| Sexual orientation unknown | **57** | **17** |
| Sexual orientation not given - patient refused | **25** | **10** |
| Bisexual | **25** | **10** |
| Male homosexual | **21** | **7** |
| Female homosexual | **16** | **7** |

**Data Gathered on 18/07/2022 from BI Reporting – Home (sharepoint.com).** |
| **5e** | **Religion & Belief:**Prompt: Main faith groups and people with no belief or philosophical belief issues should be considered | **The use of Hospital Managers is not broken down in to religion or belief. This policy does not apply the Act in a manner that has bias towards any particular group.**

|  |  |
| --- | --- |
| **Applied filters: Service Type is Inpatient**  |  |
| **Religion** | **All Patients****2021/22** | **All Patients** **2022/23** |
| **Not religious** | **548** | **221** |
| **Not Recorded** | **407** | **144** |
| **Christian** | **455** | **177** |
| **Muslim** | **206** | **81** |
| **Declines to disclose religious beliefs** | **227** | **113** |
| **Church of England, follower of religion** | **188** | **51** |
| **Religion not given - patient refused** | **116** | **38** |
| **Patient religion unknown** | **109** | **27** |
| **Religion NOS** | **76** | **34** |
| **Church of England** | **60** | **17** |
| **Religion (Other)** | **54** | **20** |
| **Roman Catholic** | **39** | **14** |
| **Christian religion** | **24** | **9** |
| **Atheist** | **15** | **3** |
| **Sikh** | **11** | **5** |
| **Agnostic** | **10** | **2** |
| **Methodist** | **10** | **4** |
| **Spiritualist** | **6** | **3** |
| **Nonconformist** | **5** | **1** |
| **Pagan** | **5** | **1** |
| **Anglican** | **4** |  |
| **Buddhist** | **4** |  |
| **Religious affiliation** | **4** | **1** |
| **Protestant** | **3** |  |
| **Apostolic Pentecostalist** | **1** | **1** |
| **Elim Pentecostalist** |  |  |
| **Baptist** | **1** |  |
| **Church in Wales, follower of religion** | **1** |  |
| **Eastern Catholic** | **1** | **1** |
| **Ethiopian Orthodox Tewahedo** | **1** |  |
| **Greek Orthodox** | **1** |  |
| **Jewish** | **1** | **2** |
| **Mormon** | **1** |  |
| **Romanian Orthodox** | **1** |  |
| **Russian Orthodox** | **1** | **1** |
| **Satanist** | **1** |  |

**Data Gathered on 18/07/2022 from BI Reporting – Home (sharepoint.com)**We know that White British people make up 87% of our region’s local authority population, more than the England average of 81%. The other main minority groups include Black or Black British people comprised 1%, less than the England average of 3%, while Asian or Asian British people comprised 8%, the same as the England average (2011 census). The local authorities with the largest proportions of Asian people are Kirklees (16%) and Calderdale (8%). This profile is likely to change significantly over the next 20 years with BME groups accounting for almost 80% of the UK’s population growth (Policy Exchange, 2014).  |
| **5f** | **Marriage and Civil Partnership**Prompt: Single, Married, Co-habiting, Widowed, Civil Partnership status are included in this category | **This policy does not discriminate against any group based on marriage/civil partnership or other habitual status.**

|  |  |
| --- | --- |
| **Applied filters: Service Type is Inpatient**  |  |
| **Marital Status** | **All Patients****2021/22** | **All Inpatients** **2022/23** |
| **Single** | **1344** | **524** |
| **Married** | **554** | **204** |
| **Not Recorded** | **264** | **81** |
| **Widowed** | **202** | **69** |
| **Divorced** | **159** | **61** |
| **Separated** | **74** | **34** |

**Data Gathered on 18/07/2022 from BI Reporting – Home (sharepoint.com)** |
| **5g** | **Pregnancy and Maternity**Prompt: Currently pregnant or have been pregnant in the last 12 months should be considered | **The use of the Mental Health Act and therefore access to Hospital Managers is applicable to all people regardless of their current health condition. It does not have a bias towards people who are or are not pregnant.** |
| **5h** | **Gender Re-assignment**Prompt: Transgender issues should be considered | **There is no specific data relating to the accessing of Hospital Managers, it is however noted that there have been 2 occasions where a service user who has been/or is in the process of gender re assignment has been subject to detention under the Mental Health Act.****Due to the nature of detention under the Mental Health Act this has meant that the person concerned has no choice but to be in hospital and therefore have access to Hospital Managers.****Where it has been necessary to admit to a gender specific ward, the service user and staff have been supported in providing agender appropriate accommodation and treatment.**

|  |  |
| --- | --- |
| **Applied filters: Service Type is Inpatient** |  |
| **Gender Re-assignment** | **All Patients****2021/22** | **All Patients** **2022/23** |
| **No** | 2594 | 971 |
| **Gender reassignment patient** | **3** | **2** |

**Data Gathered on 18/07/2022 from BI Reporting – Home (sharepoint.com)** |
| **5I** | **Carers**Prompt: Caring responsibilities paid or unpaid, hours this is done should be considered | **Access to the Hospital Managers will be included within the patient’s rights and will be shared with carers, should the patient consent, and does not discriminate against any of the protected characteristics** |
| **5j** | **Race**Prompt: Indigenous population and BME Groups such as Black African and Caribbean, Mixed Heritage, South Asian, Chinese, Irish, new Migrant, Asylum & Refugee, Gypsy & Travelling communities.) | **It is reported nationally that there is a higher incidence of people from black, Asian and mixed race groups are disproportionality detained under the Mental Health Act.** **The Trust Performance and Information department recently took a snap shot of 1 quarter of the admission and detention rate under the Mental Health Act and concluded the that this was consistent with the national picture. The Trust is undertaking significant work to understand the data and draw some conclusions.**

|  |  |
| --- | --- |
| **Applied filters: Service Type is Inpatient**  |  |
| **Ethnicity** | **All Patients****2021/22** | **All Patients** **2022/23** |
| **Any other Asian background** | 31 | 11 |
| **Any other black background** | **14** | **4** |
| **Any other Ethnic group** | 36 | 22 |
| **Any Other mixed background** | **22** | **8** |
| **Any Other White background** | 74 | 28 |
| **Bangladeshi** | **1** | **1** |
| **Black African** | 41 | 11 |
| **Black Caribbean** | **25** | **17** |
| **Chinese** | **1** | **1** |
| **Indian** | 49 | 22 |
| **Not Recorded** | **18** | **2** |
| **Not Stated** | 43 | 21 |
| **Pakistani** | **150** | **44** |
| **White and Asian** | 7 |  |
| **White and Black African** | **6** | **2** |
| **White and Black Caribbean** | 17 | 13 |
| **White British** | **2048** | **758** |
| **White Irish** | 12 | 8 |

**Data Gathered on 18/07/2022 from BI Reporting – Home (sharepoint.com)**The Trust considers services which meet the needs of our diverse population. Specific targeted work to ensure the **diverse population of Kirklees** are served well and the emerging growth of an **Asian population in Wakefield** will be considered in all service development and delivery. Support can be provided via the Trust commissioned service to assist people whose first language is not English. They can provide assistance to the assessor and the person being assessed for detention and also development of care plans to address on-going issues.

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|  | White | Asian | Black | Mixed | Chinese & Other |
| England % av. | 85.5 | 5.1 | 3.4 | 2.2 | 1.7 |
| **Kirklees** |  |  |  |  |  |
| % average | 79.1 | 15.7 | 1.9 | 2.3 | 0.7 |
| **Barnsley** |  |  |  |  |  |
| % average | 97.9 | 0.7 | 0.5 | 0.7 | 0.2 |
| **Calderdale** |  |  |  |  |  |
| % average | 89.6 | 7 | 0.9 | 1.3 | 0.6 |
| **Wakefield** |  |  |  |  |  |
| % average | 95.4 | 2.6 | 0.77 | 0.9 | 0.29 |

There are some identified negative impact on the protected characteristic of race related to language.The service may be required to offer information in the language appropriate for a specific individual.Much of this work has already been done but the languages available are not exhaustive. |

**Action Plan**

EIAs are now reviewed using a grading approach which is in line with our Equality Delivery System (EDS). This rates the quality of the EIA. This means that the team can review the EIA and make recommendations only. The rating and suggested standards are set out below:

* + **Under-developed** – red – **No data**. **No strands** of equality
	+ **Developing** – amber – **Some census data plus workforce**. **Two strands** of equality addressed
	+ **Achieving** – green – **Some census data plus workforce. Five strands** of equality addressed
	+ **Excelling** – purple –**All the data and all the strands** addressed

Potential themes for actions: Geographical location, built environment, timing, costs of the service, make up of your workforce, stereotypes and assumptions, equality monitoring, community relations/cohesion, same sex wards and care, specific issues/barriers.

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Who will benefit from this action? (tick all that apply)** | **Action 1: This is what we are going to do** | **Lead/s**  | **By when** | **Update -outcome** | **RAG** |
| **Age** |   | Patient perception of a low number of ethnic minority Hospital Managers could impact negatively on an individual’s understanding, particularly with regard to information and rights.All efforts to be made to ensure equality when advertising for Hospital Manager positions. | MDT |  Ongoing | The Trust is currently engaged in a recruitment program of Hospital Managers.We have engaged with our equality and diversity lead to assist with the recruitment programme to be reflective of the diversity within our services.The Trust Performance and Information department recently took a snap shot of 1 quarter of the admission and detention rate under the Mental Health Act and concluded the that this was consistent with the national picture. The Trust is undertaking significant work to understand the data and draw some conclusions. The aim is to have a Hospital manager group that is reflective of this metric. |   |
| **Disability** |   |
| **Gender reassignment**  |   |
| **Marriage and civil partnership** |   |
| **Race** |  X |
| **Religion or belief** |   |
| **Sex** |   |
| **Sexual Orientation** |   |
| **Pregnancy maternity**  |   |
| **Carers** |   |

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Who will benefit from this action? (tick all that apply)** | **Action 2: This is what we are going to do** | **Lead/s**  | **By when** | **Update -outcome** | **RAG** |
| **Age** |  X | The majority of the Hospital Managers are above the age of most working age adults and are looking after the rights of many individuals who are in the younger age brackets..In itself, this is not discriminatory, but it may be beneficial to attract individuals from a younger age group to become Hospital managers. | Legal |  Ongoing |  All information and recruitment to Hospital Manager positions to be fully inclusive and encourage applications from all age groups.Currently working with equality and inclusion lead to help with the recruitment process. |   |

**Involvement & Consultation: New or Previous (please include any evidence of activity undertaken in the box below)**

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| The Trust ensure that all **training is recorded and monitored**, study leave forms are completed and training outcomes are identified through formal learning needs analyses. From the workforce data in 2020 the Trust sees no adverse barriers to training access for any of its staff regardless of their ethnicity, disability, age, gender or sexuality **Development of BAME staff** – The Trust supports the BAME network, the development of both ‘Stepping Up’ and “Ready Now”, the NHS LeadershipAcademy inclusive leadership programmes; and partnering with Bradford District Care Trust on the ‘Moving Forward’ programme.**Supporting staff with a disability** – Continuing to focus on improving staff disability experience remains a priority, and the Trust has established a StaffDisability network across the Trust and are implementing the Workforce Disability Equality Standard (WDES). The Trust encourages all staff toaccess Occupational Health and wellbeing services, access health checks and attend Trust wellbeing workshops.**A representative workforce** that is reflective of its localised need – The Trust considers workforce diversity issues as part of our annual planning process and will continue to support the ‘New Horizons’ project, working with schools and engaging with local communities in the areas of mental health awareness, employability skills and promoting the NHS as an employer of choice, particularly regarding apprenticeships and HCSW opportunities in the Trust. The Trust is continuing with its participation in the Insight programme which seeks to increase Trust Board BAME representation |

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| **SECTION 7** **Grading the EIA** **Name: Aboobaker Bhana****Date: 02/10/22****Rating: Developing** EIAs are now reviewed using a grading approach which is in line with our Equality Delivery System (EDS). The team have reviewed and rated the EIA using the following: * **Under-developed** – red – **No data**. **No strands** of equality
* **Developing** – amber – **Some census data plus workforce**. **Two strands** of equality addressed
* **Achieving** – green – **Some census data plus workforce. Five strands** of equality addressed
* **Excelling** – purple –**All the data and all the strands** addressed

**Comments:** **Overall a basic EIA****No breakdown of Hospital Managers employed by protected groups** **Minimal impact on carers noted or the inclusion of the carers passport** **Some specific examples in the involvement section- You Said -we did would have been good to include and not just the link to the staff networks.****Include any complaints or concerns related to one of the equality groups, that led to learning lessons and positive outcomes** **The new census demographic data for all areas needs to be added as soon as available in the winter of 2022** 1. **Methods of Monitoring progress on Actions**

Assessing and developing the appointment process of Hospital Managers to include the diverse nature of patients’ nationality and/or raceTo continue to report on the age and ethnicity of the Hospital Manager group, whilst ensuring the current group is aware of diversity. |

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| 1. **Publishing the Equality Impact Assessment**
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| 1. **Signing off Equality Impact Assessment:**

Service Manager  |

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***Once approved, you must forward a copy of this***

***Assessment/Action Plan by email to:***

**InvolvingPeople@swyt.nhs.uk**

**Please note that the EIA is a public document and will be published on the web.**

**Failing to complete an EIA could expose the Trust to future legal challenge.**

# Appendix D

## Checklist for the Review and Approval of Procedural Document

To be completed and attached to any policy document when submitted to EMT for consideration and approval.

|  |  |  |  |
| --- | --- | --- | --- |
|  | Title of document being reviewed: | Yes/No/Unsure | Comments |
| 1. | Title |  |  |
|  | Is the title clear and unambiguous? | YES |  |
|  | Is it clear whether the document is a guideline, policy, protocol or standard? | YES |  |
|  | Is it clear in the introduction whether this document replaces or supersedes a previous document? | YES |  |
| 2. | Rationale |  |  |
|  | Are reasons for development of the document stated? | YES |  |
| 3. | Development Process |  |  |
|  | Is the method described in brief? | YES |  |
|  | Are people involved in the development identified? | YES |  |
|  | Do you feel a reasonable attempt has been made to ensure relevant expertise has been used? | YES |  |
|  | Is there evidence of consultation with stakeholders and users? | YES |  policy group |
| 4. | Content |  |  |
|  | Is the objective of the document clear? | YES |  |
|  | Is the target population clear and unambiguous? | YES |  |
|  | Are the intended outcomes described?  | YES |  |
|  | Are the statements clear and unambiguous? | YES |  |
| 5. | Evidence Base |  |  |
|  | Is the type of evidence to support the document identified explicitly? | YES |  |
|  | Are key references cited? | YES |  |
|  | Are the references cited in full? | YES |  |
|  | Are supporting documents referenced? | YES |  |
| 6. | Approval |  |  |
|  | Does the document identify which committee/group will approve it?  | YES | Executive management team |
|  | If appropriate have the joint Human Resources/staff side committee (or equivalent) approved the document? | N/A |  |
| 7. | Dissemination and Implementation |  |  |
|  | Is there an outline/plan to identify how this will be done? | N/A | This policy outlines delegated responsibilities under MHA |
|  | Does the plan include the necessary training/support to ensure compliance? | N/A | Training is provided for different elements of the MHA – not specifically this document.  |
| 8. | Document Control |  |  |
|  | Does the document identify where it will be held? | YES |  |
|  | Have archiving arrangements for superseded documents been addressed? | YES |  |
| 9. | Process to Monitor Compliance and Effectiveness |  |  |
|  | Are there measurable standards or KPIs to support the monitoring of compliance with and effectiveness of the document? | YES | Through the MHA Committee |
|  | Is there a plan to review or audit compliance with the document? | YES | Reviewed on a regular basis through the administration of the MHA |
| 10. | Review Date |  |  |
|  | Is the review date identified? | YES |  |
|  | Is the frequency of review identified? If so is it acceptable? | YES |  |
| 11. | Overall Responsibility for the Document |  |  |
|  | Is it clear who will be responsible implementation and review of the document? | YES |  |

# Appendix E

## Version Control Sheet

This sheet should provide a history of previous versions of the policy and changes made

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Version | Date | Author | Status | Comment / changes |
| 1 | June 2004 | Director of Risk and Governance | Final | Final version approved by Trust BoardNote – This policy is known as Duties of Hospital Managers |
| 2 | March 2005 | Director of Corporate Development | Reviewed – no change | Note – This policy is Known as Duties of hospital Managers |
| 3 | August 2009 | Head of Legal Services | Reviewed | Amended to reflect changes to MHA 1983 and code of practice This policy known as Duties of hospital managers |
| 4 | October 2010 | Head of Legal Services | DRAFT | Complete change of policy to reflect delegated responsibilities under the MHA and cross referenced with the MHA and associated guidanceThis policy now known as Functions of Hospital Managers under the MHA 1983 |
| 5 | February 2016 | Assistant Director, Legal Services | Final | References to Code of Practice and MHA Reference Guide updated.  |
| 6 | March 2019 | Assistant Director Legal Services | Review | References to Code of Practice and MHA Reference Guide and Policy documents updated.Change of Director lead to medical DirectorInclude reference to standard operating procedure for admitting young people to adult wards. Reference to receipt and scrutiny documents included in this policy (no longer separate policy for receipt and scrutiny)Removal of PCT reference . insert reference to independent hospital. |
| 7 | November 2022 | Assistant Director Legal Services | Review |  |
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