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| --- | --- |
| **Document name:** | MHA section 5(2) Registered medical practitioner and approved clinicians holding power |
| **Document type:** | Policy |
| **What does this policy replace?** | Update of previous policy  |
| **Staff group to whom it applies** | All clinical staff within the trust mental health and learning disabilities services |
| **Distribution:** | The whole of the Trust |
| **How to access:** | Intranet |
| **Issue date:** | March 2016May 2019 (Reviewed February 2019)November 2022 |
| **Next review:** | October 2025 |
| **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 |

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# Introduction

This policy should be read in conjunction with section 5(2) of the Mental Health Act 1983, Chapter 18 of the Mental Health Act Code Practice 2015 and Chapter 8 Reference Guide to the Mental Health Act 1983.

Section 5(2) of the Mental Health Act 1983 authorises the detention for up to 72 hours, of an in-patient. It can only be used where the doctor/approved clinician in charge of the treatment of an informal patient, or the nominated deputy, concludes that an application for admission under one of the relevant sections of the Act is appropriate.

For this purpose informal in-patients include those being treated for physical disorders who need assessment for mental disorder.

The period of detention commences at the moment the report (form H1) is furnished to the Hospital Managers or someone authorised to receive such a report on their behalf. Part 2 of the H1, receipt of formal admission under the Mental Health Act must be completed as soon as possible by a member of staff authorised to undertake this duty.

Section 5(2) of the Mental Health Act 1983 provides for an informal patient to be detained for up to 72 hours in order for a Mental Health Act assessment to be carried out for a section 2 or 3. Section 5(2) is not renewable, however this does not prevent it from being used at another time.

The purpose of the holding power is to prevent a patient discharging him or herself before there is time to arrange for an Assessment/treatment under the Act.

The purpose of this policy is to:

* Define an “in-patient”
* Identify who is able to invoke section 5(2)
* Describe the process of arranging an assessment under the Mental Health Act
* Define when a patient may be legally transferred to another unit when subject to section 5(2)

# Definition of an in-patient and patients subject to this section

In this context, a hospital in-patient means any person who is receiving in-patient treatment in a hospital. It does not apply to a patient who is already liable to be detained under section 2, 3 or 4 of the Act, subject to a community treatment order, or a person who is subject to s135 or s136.

The power cannot be used for an outpatient attending hospital accident and emergency department or any other out-patient.

Section 5(2) should only be used if, at the time, it is not practicable or safe to take necessary steps to make an application for detention without detaining the patient first.

Doctors and approved clinicians should use the holding power only after having personally examined the patient first.

# Who is able to invoke section 5(2)

The doctor/approved clinician in charge of the patient’s treatment or his or her nominated deputy can invoke section 5(2). The doctor/approved clinician in charge of the patient’s treatment may nominate a deputy to exercise section 5(2) powers during his or her absence from the hospital [section 5(3)]. The deputy will then act on their own responsibility

* Only a doctor or approved clinician on the staff of the same hospital may be a nominated deputy. Only one deputy can be nominated at one time for any patient, and it is unlawful for a nominated deputy to nominate another.
* Doctors should not be nominated as a deputy unless they are competent to perform the role. If nominated deputies are not approved clinicians (or doctors approved under section 12 of the Act) they should, wherever possible, seek advice from the person for whom they are deputising or someone who is an approved clinician or section 12 approved.
* The nominated deputy should report the use of section 5(2) to the person they are deputising for as soon as possible.
* All relevant staff should know who the nominated deputy for a particular patient is.
* Deputies can be nominated by title, rather than name, eg the junior doctor on call for the ward.
* Doctors and approved clinicians may leave instructions with ward staff to contact them (or their nominated deputy) if a particular patient wants or tries to leave. But they may not leave instructions for their nominated deputy to use section 5(2). The deputy must use their own professional judgment.

Out of normal working hours (Friday 5pm to Monday 9am, Bank Holidays and other national holidays recognised by the Trust) the nominated deputy will usually be the junior doctor on call. It is the responsibility of the doctor in charge of the treatment for each patient, to ensure that all deputies liable to be on duty are competent to act as the nominated deputy and that they have been adequately trained.

# Patients rights

When a patient is detained under section 5(2) the nursing staff must inform the patient as to the reasons and the duration of this power. (Section 132) and record on SystmOne.

# Medical treatment of patients

Section 5 does not provide any power under the MHA to treat the person without their consent. The rules in part 4 of the Act do not apply (18.41 MHA Code of Practice)

# Record keeping

Form H1 – Part 1 is completed by a medical practitioner or an approved clinician

Form H1 – Part 2 is completed by a nurse authorised on behalf of the Trust to receive MHA documentation

On completion of Part 1 this is submitted to the nursing staff immediately for receipt. (A paper copy is available on the trust intranet under ‘Mental Health Act’)

A section 5(2) checklist is provided for the purpose of receiving the documents (A paper copy is available on the trust intranet under ‘Mental Health Act’)

Following the use of section 5(2) the trust section 5(2) monitoring form should be completed.

All documents should be scanned and sent to local MHA Office with the originals placed in an envelope and sent to the local MHA Office.

#  Assessment under the Mental Health Act

Arrangements for an assessment to consider an application under section 2 or section 3 of the Act should be put in place as soon as the H1 report is furnished to the hospital managers or passed to a person authorised to accept section papers. Inform an approved mental health professional (AMHP) immediately of the section 5(2).

## Monday to Friday 9am – 5pm – request for MHA assessment

* Barnsley MH – request via MHA administration
* Wakefield MH – requests via MHA administration
* Calderdale MH – requests via nursing staff - single point of access
* Kirklees MH – requests via nursing staff - single point of access
* The medical practitioner will assess the patient to determine if he or she meets the criteria for section 2 or 3. If the patient does not, then detention under section 5(2) ends and the patient must be informed of his or her rights. Mental Health Act Administration is informed immediately.
* If the patient meets the criteria for section 2 or 3, the doctor will complete the appropriate medical recommendation.
* A request for a Mental Health Act assessment will be made to an approved mental health professional who will arrange for the GP or a section 12(2) approved doctor to attend. Should the second doctor or the AMHP assess that the patient does not meet the criteria for a section 2 or 3, detention under section 5(2) ends and the patient must be informed of his or her rights.
* The nurse in charge will inform the Mental Health Act administrator of the outcome.

## Outside of 9am – 5pm, weekends and bank holiday – requests for MHA assessments

Arrangements for an assessment to consider an application under section 2 or section 3 of the Act should be put in place as soon as the H1 report is furnished to the hospital managers or passed to a person authorised to accept section papers. An AMHP will be informed immediately of the section 5(2).

The Nurse in Charge of the ward will contact:

* Barnsley – Emergency Duty Team
* Wakefield – Social Care Direct
* Kirklees – Single point of access
* Calderdale – Single point of access
* The doctor who has invoked the section 5(2) will inform the on call consultant to make him or her aware that an assessment in required.
* If the consultant makes a recommendation for a section 2 or 3, the applicable service named above is informed that an assessment is required.
* Emergency Duty Team (Barnsley), Single point of access (Calderdale & Kirklees), Social Care Direct (Wakefield) will arrange for a second doctor and an AMHP to attend and assess the patient.
* If any of the professionals involved in the assessment decide not to proceed with a section 2 or 3 then detention under section 5(2) ends and the patient must be informed of his or her rights.
* The nurse in charge of the ward will ensure that the Mental Health Act administration is informed of the outcome the next working day.

# Transfers and section 5(2)

Section 19 of the Mental Health Act 1983, allows for the formal transfer of a patient to another hospital managed by a different authority or trust and the informal transfer of a patient to another hospital managed by the same managers. **Patients detained under Section 5(2) are not detained by virtue of an application and therefore the provisions of Section 19 do not apply.**

**A patient may not be transferred to another hospital under the provisions of this section.** However, in cases **where urgent treatment is required,** and in the absence of consent there is pressing need, the patient may if applicable be taken to another hospital for treatment under the provisions of the Mental Capacity Act (chapter 5 and 6). For example, to attend Accident and Emergency to save life or prevent serious deterioration in health. In such a case, the patient is still subject to the detention under the Act, and should he or she abscond the patient may be arrested by the police (within the 72 hours) and returned to hospital.

The authority to detain the patient lapses when he or she is admitted to another hospital (including those under the control of the same hospital managers) and fresh consideration needs to be given to invoke the detention if the patient tries to leave the new hospital.

If the conditions are met, an emergency application for detention under section 4 of the Act could be made to the sending hospital (chapter 15 Code of Practice). The patient could then be transferred to the receiving hospital under Section 19. Alternatively an application under Section 4 could be made to the managers of the receiving hospital.

Good practice dictates that whenever possible, patients are not moved during the assessment period. Where it is necessary to transfer a patient to another hospital under these circumstances, the Hospital Managers must be informed via Mental Health Act administration to ensure the practice is monitored.

# Definitions

|  |  |
| --- | --- |
| Section 5(2) | A section of the MHA authorising a doctor to detain an inpatient for up to 72 hours, pending a full assessment under the MHA |
| Section 132 | A section of the MHA that relates to informing patients of their rights under the Act. |
| Mental Capacity Act | An Act that defines the rights of and responsibilities to people who lack capacity to make decisions. |
| Mental Health Act administration | The department of the hospital responsible for ensuring that the paperwork and practice relating to detention of patients under the MHA. |
| MHA | Mental Health Act 1983. |
| Approved clinician | An approved doctor authorised under the MHA as a doctor able to assess a patient under the Mental Health Act 1983. |

# Duties

The Trust Board is responsible for approving the policy for the approval, dissemination and implementation of policies and procedures as outlined in this document.

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.

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.

Medical, nursing and other clinical staff are responsible for ensuring that their actions comply with the policy.

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.

# Principles

This updated policy seeks to operationalise section 5(2) of the MHA, the statutory guidance within the Code of Practice and the Mental Health Act Reference Guide in respect of the use of the doctors holding power under section 5(2) of the MHA.

# Equality impact assessment

The policy has had an equality impact assessment, (appendix 1). 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

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

Mental Health Act 1983

Section 5(4) Policy

Section 132 policy

# Associated Documents

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

# Appendix 1

## Equality Impact Assessment

**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) | **Section 5 (2) Mental Health Act - Registered Medical Practitioner / Approved Clinician Holding Power .** |
| **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 Section 5(2) Mental Health Act 1983.****To provide guidance to clinicians on its application****To provided guidance to MHA administrators re the application of Section 5(2) Mental Health Act 1983 and its legal powers.** |
| **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 in the application of Section 5(2).****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
* 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 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.
* 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)
* 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 | **Section 5(2) is prescribed in law and does not discriminate on grounds of disability.****However, because its use can be applied to 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)****Section 5(2) can only be applied in an in patient setting, hence the inpatient data and not overall data applicable to the Trust activity.** |
|  | **QUESTIONS** | **ANSWERS AND ACTIONS** |
| **5b** | **Gender:**Prompt: Female & Male issues should be considered | **Section 5(2) is prescribed in law and does not discriminate on grounds of gender.**

|  |  |
| --- | --- |
| **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)****The data below shows the use of Section 5(2) over the period April 2021 - March 2022. The data does suggest a higher incidence of application of Section 5(2) with female service users when comparing to overall admission rates above, however this should be treated with caution as there are a number of factors that can influence the use of section 5(2) such a the voluntary status of an individual making them eligible for an application under this section.****Use of Section 5.2 by Gender.**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Gender**  | **Quarter 1** | **Quarter 2** | **Quarter 3** | **Quarter 4** | **Total**  |
| **Male**  | 22 | 16 | 16 | 17 | 71 |
| **Female**  | 17 | 29 | 19 | 21 | 86 |
| **Total**  | 39 | 45 | 35 | 38 | 157 |

 |
| **5c** | **Age:**Prompt: Older people & Young People issues should be considered | **The application of the Section 5(2) is not broken down into age groups and therefore unable to provide any analysis or conclusion.****The use of section 5(2) is a holding power which can only be applied for up to 72 hours to provide time for a full MHA assessment to be undertaken. This power is used to maintain the safety of the service user and others (where applicable) when the service user appears to be mentally unwell.**

|  |  |
| --- | --- |
| **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 reporting of section 5(2) 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 Section 5(2) 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 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 application of Section 5(2), 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.****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 | **Section 5(2) is a holding power that is used on an inpatient ward, data is not collated.****Due to the time constraints of applying and reviewing this holding power, it is often difficult to contact carers to inform them of on-going changes to the situation. Carers would be informed of the status of the patient as soon as possible after the event.** |
| **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.) | **The MHA sections are not broken down into specific groups, although 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 3: This is what we are going to do** | **Lead/s**  | **By when** | **Update -outcome** | **RAG** |
| **Age** |   | Although there is no data to suggest that there is a different prevalence in lowered mental capacity due to race, there may be language difficulties that could impact negatively on an individual’s understanding, particularly with regard to information and rights.All information to be produced in numerous languages and easy-read format. Interpreters to be provided and family and carer involvement to be promotedThe MHA sections are not broken down into specific groups, although 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 | MDT |  Ongoing |  All information packages are produced in alternative languages and carers are involved in communication with patients.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. |   |
| **Disability** |   |
| **Gender reassignment**  |   |
| **Marriage and civil partnership** |   |
| **Race** |  X |
| **Religion or belief** |   |
| **Sex** |   |
| **Sexual Orientation** |   |
| **Pregnancy maternity**  |   |
| **Carers** |   |

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

|  |
| --- |
| 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****Include if available data for clinicians employed in Trust broken down their protected groups who have these powers.****Also a breakdown of how many times holding powers have been used and on who?****Inclusion of the carers passport would be beneficial** **Some specific examples in the involvement section- You Said -we did would have been good to include** **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 production of multi-lingual information leaflets and the use of interpreters to ensure there is no barrier to language based on patients’ nationality and/or raceP&I in conjunction with Race Equality Working group to look at reasons for apparent disproportionate use of MHA on ethnic minority in-patients |

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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 2

## 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 | 2015 | Assistant Director, Legal Services | Final | Final version approved by Trust Board |
| 2 | Feb 2016 | Assistant Director, Legal Services | Draft | MHA CoP and MHA Reference Guide references updated to latest edition. |
| 3 | Feb 2019 | Assistant Director Legal Services | Review |  |
| 4 | May 2022 | Assistant Director Legal Services | Review |  |
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# Appendix 3

## 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? | NO |  |
|  | 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 | Clinical Policies and Procedures 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 |  |
|  | 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? | YES |  |
|  | Does the plan include the necessary training/support to ensure compliance? | N/A |  |
| **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 |  |
|  | Is there a plan to review or audit compliance with the document? | YES |  |
| **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 |  |