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| Document name: | Section 134A Decisions to withhold correspondence |
| Portfolio | Legal Services |
| What does this policy replace? | Section 134 MHA: Withholding Patients’ Mail |
| Document type: | Policy |
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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 316000  Mental Health Act Administrators |

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# 

# PATIENTS' CORRESPONDENCE - WITHHOLDING OUTGOING MAIL

“Article 8 of the European Convention on Human Rights (ECHR) requires public authorities to respect a person’s right to a private life. Article 8 has particular importance for people detained under the Act. Privacy, safety and dignity are important constituents of a therapeutic environment. Hospital staff should make conscious efforts to respect the privacy and dignity of patients as far as possible, while maintaining safety, including enabling a patient… to send and receive mail, including in electronic formats, without restriction.”[[1]](#footnote-1)

37.37 of the Mental Health Act Code of Practice states "Section 134 allows managers to withhold outgoing post from detained patients if the person to whom it is addressed has made a written request to the hospital managers, the approved clinician with overall responsibility for the patients case or the Secretary of State that post from the patient in question should be withheld”

The fact that post has been withheld must be recorded in writing and the patient informed.

This Policy should also be read in conjunction with section 134 of the Mental Health Act 1983 (amended 2007) and chapter 5 MHA reference guide 2015.

## Power to withhold mail

The Mental Health Act, 1983 states; “ A postal packet addressed to any person by a patient detained in a hospital under this Act and delivered by the patient for dispatch may be withheld from the Post Office: (a) if that person has requested that communications addressed to him by the patient should be withheld.”

The term detained patient does not include patients who are at the time, recalled to hospital under a community treatment order.

## Process for Withholding Correspondence.

* 1. A request to have a patient's mail withheld from a particular individual can be made to, the managers of the hospital or the approved clinician with overall responsibility. Any such request must be made in writing and signed.
  2. When the managers of the hospital or the approved clinician**[[2]](#footnote-2)** receives a request to withhold a patient’s mail from dispatch to the Postal Operator he/she ensures that:
     1. the patient is detained under the Mental Health Act.
     2. the person making the request is not excluded from section 134 [see appendix A].
     3. the approved clinician makes it known to the patient that his/her mail, when addressed to a specific person, is to be withheld. This should be both verbally and in writing.
     4. The approved clinician informs the managers of the Trust, in writing, that the patient has been made subject to Section 134, and includes a copy of the original letter of request .
     5. The approved clinician makes an entry in the clinical record confirming the decision to withhold the patient's mail, which details the addressee’s, name and address.
     6. The approved clinician makes it known to the patient that his/her mail, when addressed to a specific person, is to be withheld.
     7. The approved clinician makes it known to the nurse in charge of the patient’s ward that this patient's mail, when addressed to a specific person, is to be withheld.
     8. The approved clinician discusses the implications of this restriction with the multidisciplinary team.

## Responsibility of Nursing Staff (please see appendix B)

* 1. When informed by the approved clinician that a patient's mail is subject to being withheld, the nurse in charge ensures that:
     1. a care plan is constructed which describes specifically which mail must be withheld and the means by which this will be accomplished.
     2. a care plan is constructed to help the patient understand his/her rights under the Mental Health Act with regard to this matter.
     3. The nursing staff must inform the patient that the “regulatory authority” (Care Quality Commission) may review the decision to withhold a postal packet (or anything contained in it).
     4. The patient can request the Care Quality Commission to review a decision within 6 month of the notice to implement section 134.
     5. The “regulatory authority” (Care Quality Commission) may direct that the postal packet (or anything contained in it) is not to be withheld.
     6. any other care plans deemed appropriate, are constructed, for example; support and information to the patient concerned.

## Non-compliance with Restrictions

In the event of a patient subject to section 134 of the Mental Health Act, presenting a postal packet for dispatch addressed to persons on the withheld list, this is recorded in the patient’s clinical notes. The packet is returned to the patient with an explanation as to why it cannot be dispatched.

## Leave of Absence

If a patient subject to section 134 is given leave of absence under s17, it is made clear to the patient that a condition of such leave is compliance with the requirements of the restriction

## Receipt of Mail by Patients

* 1. There is no provision under section 134 to withhold or inspect a patient's incoming mail. If there is reason to believe that incoming mail may contain articles of potential danger refer to relevant local policies.
  2. If a patient is sent a postal packet which causes suspicion, it is withheld and advice is sought from the manager of the service or manager on call.

## Monitoring

Application of section 134 will be monitored through the Mental Health Act Committee. The approved clinician/nursing staff must inform the MHA administrator when section 134 is applied. The responsibility for informing the Mental Health Act Committee is with the MHA administration staff.

# Definitions

|  |  |
| --- | --- |
| Approved clinician | A doctor approved under the regulations of the MHA. |
| Code of Practice | The Mental Health Act Code of Practice 2015 |
| Detained patient | A patient detained in hospital under the MHA. |
| European Convention of Human Rights | A European convention to which has been ratified by the UK. |
| Hospital Managers | Independent people appointed by the hospital, under the MHA, to be responsible for certain aspects of the MHA, review patient’s detention and monitor the use of the MHA. |
| Mental Health Act Committee | A committee of the trust that is accountable for the use of the Mental Health Act. |
| Mental Health Act Office | 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. |
| MHA Reference Guide | A guide to implementing aspects of the MHA |
| Ministry of Justice | The department of government responsible for approving leave for restricted patients. |
| MoJ | Ministry of Justice |
| Postal packet | A letter, parcel, packet or other article transmissible by post. |
| Responsible clinician | An approved doctor authorised under the MHA as the doctor responsible for the treatment of a detained patient. |
| Restricted patient | A patient who has been directed to be detained in hospital by a court and who has restrictions placed on them, including their entitlement to leave. |
| Secretary of State for Justice | The government minister responsible for the management of patients detained in hospital by a court. |

## Duties

* 1. Trust Board is responsible for approving the policy for the approval, dissemination and implementation of policies and procedures as outlined in this document.
  2. The Hospital Managers are responsible for approving the process relating to the withholding of mail. 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.

## Principles

This policy seeks to operationalise the requirements, duties and rights associated with section 134 of the MHA, the statutory guidance within the Code of Practice, the MHA Reference Guide and the regulations relating to section 134.

## Equality impact assessment

The policy has had 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

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

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

European Convention of Human Rights (1953)

Mental Health Act 1983

# Appendix A

## Exclusions to Section 134

The withholding of patients' correspondence from dispatch to the Postal operator is not applicable if the addressee is any of the following:

1. Any Government Minister, Welsh or Scottish Ministers or the Counsel General to the Welsh Assembly Government
2. A member of either House of Parliament or a member of the National Assembly for Wales or the Scottish Parliament or the Northern Ireland Assembly.
3. Any Judge or officer of the Court Of Protection, any Court of Protection Visitor, or any person asked by the court for a report under Section 49 of the Mental Capacity Act 2005 concerning the patient.
4. The Parliamentary Commissioner for Administration (the Parliamentary Ombudsman).
5. The Scottish Public services Ombudsman
6. The Public services Ombudsman for Wales
7. The Health Service Commissioner for England (the Parliamentary and Health Service
8. A member (other than an advisory member) of the Commission for Local Administration in England (the local government ombudsman)
9. The Care Quality Commission
10. The First tier Tribunal or the Mental Health Review Tribunal for Wales
11. The NHS Commissioning Board, a clinical commissioning group (CCG), local health board, special health authority or local authority.
12. A Community health council (in Wales)
13. A provider of probation services
14. A provider of a patient advocacy and liaison service for the assistance of patients at the hospital in which the patient is detained and their families and carers, which is provided by an NHS trust, an NHS Foundation trust, a ICB or the NHS Commissioning Board
15. A provider of independent mental health advocacy services under the Act, or independent complaints advocacy services under the NHS Act 2006, the Local Government and Public Involvement in Health Act 2007 or the NHS (Wales) Act 2006, or independent mental capacity advocacy under the Mental Capacity Act 2005 for the patient
16. The managers of the hospital in which the patient is detained
17. The patient’s legal adviser(if legally qualified and instructed to act on their behalf), or
18. The European Commission of Human Rights or the European Court of Human Rights.

# Appendix B

## Procedure for inspecting correspondence (MHA reference guide )

Regulation 17 describes the procedure which should be followed if a postal packet is inspected and opened. Inspection alone does not have to be recorded: this includes cases where the contents can be read without opening (such as in the case of a postcard).

If a packet is opened but nothing is withheld, the person who opened the packet must place a notice in the packet stating:

* that the packet has been opened and inspected
* that nothing has been withheld and
* the name of the appointed person and the name of the hospital

Where a postal letter or packet is withheld, a record must be made in a register kept for the purpose by the person who withheld it of:

* the fact that the package has been withheld
* the date and the grounds on which it was withheld
* the name of the appointed person who withheld it
* a description of the item withheld

# Appendix C

## 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 134 Mental Health Act- Withholding patients’ mail.** |
| **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 134 Mental Health Act 1983.**  **To provide guidance to clinicians on its application**  **To provide guidance to MHA administrators re the application of Section 134 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](mailto: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 134.**  **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 or  Difficulties, Physical, Visual, Hearing  disabilities and people with long term  conditions such Diabetes, Cancer,  Stroke, Heart Disease etc. Accessible information standard | **Section 134 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 134 can only be applied in an in patient setting with patients who are detained under the mental health act, 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 134 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). All in-patients are subject to section 132 MHA** |
| **5c** | **Age:**  Prompt: Older people & Young People issues should be considered | **The application of the Section 134 is not broken down into age groups and therefore unable to provide any analysis or conclusion.**  **The use of section 134 is for the withholding of mail for in-patients detained in hospital. This part of the Act is implemented to ensure the safety of all patients and staff in an in-patient mental health unit or are detained under the Mental Health Act.**   |  |  |  | | --- | --- | --- | | **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 134 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 134 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 134, 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 134 is used on an inpatient ward to ensure that service users rights regarding receiving their mail is upheld and data is not collated.**  **It is essential for clinicians to contact carers to inform them of any withholding of mail and any pertinent reasons and on-going changes to the situation and to give them a copy of the patients’ rights regarding mail, should the patient agree to it being shared. Carers would be informed of the status of the patient as soon as possible after section 134 has been utilised.** |
| **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 1: This is what we are going to do** | **Lead/s** | **By when** | **Update -outcome** | **RAG** |
| **Age** |  | Race, specifically does not impact on the use of Section 134, however 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 promoted  The use of Section 134 MHA is 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 rights leaflets and information regarding patients’ mail 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)**

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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 Leadership  Academy 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 Staff  Disability network across the Trust and are implementing the Workforce Disability Equality Standard (WDES). The Trust encourages all staff to  access 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 data provided of patients by protected groups who have had their mail withheld**  **No impact on carers noted**  **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 and rights leaflets and the use of interpreters to ensure there is no barrier to language based on patients’ nationality and/or race  P&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 | |

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

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

[**InvolvingPeople@swyt.nhs.uk**](mailto: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

# Version Control Sheet

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Version** | **Date** | **Author** | **Status** | **Comment / changes** |
| 1 | June 1999 |  | Final | Original version approved by Trust Board |
| 2 | September 2002 |  | updated | Reviewed |
| 3 | September 2004 |  |  |  |
| 4 | November 2015 | Assistant Director, Legal Services | Updated | Updated to reflect changes in references in MHA CoP 2015 and MHA Reference Guide 2015 |
| 5 | February 2016 | Assistant Director, Legal Services | Reviewed |  |
| 6 | Febrary 2019 | Assistant Director Legal Services | Reviewed |  |
| 7 | November 2022 | Assistant Director Legal Services | Reviewed |  |
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# Appendix B

## Checklist for the Review and Approval of Procedural Document

|  | **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? | NO | Technical interpretation of law |
| **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? | YES | MHA training is already in place |
| **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 | Through the Mental Health Act Committee |
| **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 |  |

1. Mental Health Act Code of Practice (2015) para 8.4 [↑](#footnote-ref-1)
2. ‘postal packets’ which has the same meaning as in the postal services Act 2011, ie a letter , parcel, packet or other article transmissible by post. The power to withhold a postal packet also applies to anything contained in it. [↑](#footnote-ref-2)