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Compliance links: (is there any NICE related to guidance)	No. CQC 2010 Guide on ' <i>Use of MHA 1983 in general Hospitals without a psychiatric unit</i> ' may still be found on <i>the internet but has been withdrawn. A replacement guide is awaited.</i>
If Yes - does the strategy/policy deviate from the recommendations of NICE? If so why?	N/A

Non-Clinical Policy Administrative Arrangements Concerning Detention of Patients under the Mental Health Act

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Non-Clinical Policy Administrative Arrangements Concerning Detention of Patients under the Mental Health Act

1. Purpose

The Mental Health Act 1983 (as amended in 2007) (**MHA**) provides a framework for the compulsory admission to hospital and subsequent treatment of patients with a mental disorder.

This Trust does not provide specialist psychiatric care. Some of our patients will, however, suffer with mental illness and some will require detention under the MHA whilst in our hospital for physical care or treatment.

This Policy is intended to ensure that appropriate administrative arrangements are in place to meet the Trust's obligations under the MHA and to ensure that the rights of detained patients are protected and promoted.

2. Scope

2.1 This policy applies to all staff associated with the care of patients who are detained, or liable to be detained, under the MHA.

NNUH is a 'general hospital' (i.e. without a psychiatric unit). Each year around 50* patients are detained under the MHA whilst an inpatient at NNUH as follows:

Under Section 5(2): 15-20 patients

Under Section 2: 20 – 25 patients

Under Section 3: <5 patients

*in fact the total number of patients is less than the total of all the categories, since some patients will be detained under more than one section of the MHA (e.g. initial detention under s5(2) before substantive detention following assessment under s2) .

In addition, around 50 patients who are detained under MHA elsewhere may be transferred on Section 17 '*treatment leave*' to receive inpatient treatment at NNUH.

2.2 The Mental Health Act (**MHA**) should not be confused with the Mental Capacity Act 2005 (**MCA**).

The MHA regulates treatment of *mental disorder* which is defined to include any disorder or disability of the mind (excluding dependence on alcohol or drugs). It includes mental illness such as bipolar disorder, schizophrenia, depression, personality and eating disorders, compulsive disorders, phobias and delusional disorders. The MHA enables the compulsory detention of patients if this is necessary so that their mental illness can be treated.

The MCA on the other hand sets out a framework for making decisions about the care and treatment of adult patients when they are unable to make particular decisions for themselves due to lack of mental capacity.

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The Deprivation of Liberty Safeguards (DOLS) were established under the MCA and relate to patients who lack mental capacity to make decisions about their physical care and treatment and who require detention in hospital for their own safety or otherwise in their best interests. They do not allow for detention for psychiatric care.

The interrelationship between the DOLS and the MHA is highly complex and there is a legal concept of a 'deprivation within a deprivation'. It is not possible for this Policy to attempt to provide guidance on such circumstances. Any staff who are concerned that a patient's case falls outside the usual generality of the care of a patient suffering with mental health difficulties is advised to seek advice (details provided at section 9 below).

3. Duties and definition of terms

- 3.1 The MHA Code of Practice sets out extensive guidance on the application of the MHA in practice. The Code was revised in 2015 and the latest version is available at: <https://www.gov.uk/government/publications/code-of-practice-mental-health-act-1983> The MHA Code of Practice provides guidance on most circumstances that are likely to arise in the circumstances of our hospital and it is not attempted to replicate this in this policy.

Some roles and terms have a specific meaning as defined under the MHA as set out in the table below. 4 points of note:

- Substantive detention under the MHA can only be effected by specified staff with particular specialist training – these are called **Approved Clinicians**;
- The care of every patient detained under the MHA must be overseen by a named **Responsible Clinician**. This is a specialist role which is undertaken by an Approved Clinician provided by the NSFT (see Appendix 1 for confirmation);
- Patients who are inpatients at NNUH and are then detained under the MHA are detained in the name of the Trust Board – as '**Hospital Managers**' under the MHA. Under our Scheme of Delegation, our Site Operations Team have delegated authority to act as Hospital Managers for purposes of the MHA. Appendices 2 to 5 detail the processes to be followed by the Site Operations Team;
- Responsibility for maintaining the Mental Health Act Register rests with the **Mental Health Act Administrator** – in our case the Board Secretary.

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<p>Approved Clinician – (require specialist training and experience, unlikely to be found in a general hospital)</p>	<p>A mental health practitioner approved for the purposes of the MHA. Certain decisions under the MHA can be made only by Approved Clinicians. In particular, medical treatment under the MHA cannot be given without a patient’s consent unless it is overseen by an Approved Clinician. Only Approved Clinicians can be Responsible Clinicians (see below).</p>
<p>Hospital Manager (delegated authority to NNUH Site Operations Team)</p>	<p>Hospital Manager(s) is the individual or body responsible for a particular hospital in which a patient is detained. In this Trust the Site Operations Team have delegated authority for this role with regard to the Mental Health Act administration.</p> <p>The Site Operations Team are responsible for the initial checking of all detention paperwork and to ensure that copies of the paperwork are delivered to the Mental Health Act Administrator, c/o Legal Services, level 4, West Outpatients.</p> <p>They will also provide the patient and their family, when in attendance, with an information leaflet outlining their rights. Where appropriate they will signpost referral to an Independent Mental Health Advocate (IMHA).</p> <p>The Site Operations Team can also authorise the transfer of the patient to the care of another organisation, completing the necessary Form H4.</p>
<p>Independent Mental Health Advocate (IMHA)</p>	<p>Means the advocacy services for patients detained under the MHA</p>
<p>Mental Health Act Administrator (MHAA) (delegated authority to Board Secretary)</p>	<p>The MHAA is responsible to maintain the Mental Health Register of patients detained under the MHA and for completion of the annual Kerner return KP90 to the Department of Health.</p> <p>The MHAA will check that the documents relating to detention of a patient under MHA are in order. They will ensure that any patient who wishes to apply to a Mental Health Review Tribunal is given the necessary assistance.</p>
<p>Mental Health Liaison Team</p>	<p>The NSFT Liaison Team based at the NNUH can provide expert support and advice on management of patients with mental health problems liable to be detained under the MHA whilst in NNUH.</p> <p>For contact details of the NSFT Liaison Team – see Sources of Advice at section 9 below.</p>
<p>Nearest Relative (NR)</p>	<p>The NR is defined in the MHA. It does not mean the same as ‘next of kin’. Under the MHA the NR has various rights, which can include discharging the patient from detention in certain circumstances.</p> <p>The NR is the surviving person first in the list below:</p> <ul style="list-style-type: none"> • Husband or wife • Son or daughter • Parent • Brother or sister • Grandparent • Grandchild • Uncle or aunt
<p>Responsible Clinicians (RC)</p>	<p>The care of every patient detained under the MHA must be overseen by a named Responsible Clinician.</p> <p>For patients detained under MHA at NNUH, the Responsible Clinician is provided by Norfolk and Suffolk NHS Foundation Trust (see Appendix 1)</p> <p>The RC is the Approved Clinician in overall charge of the patient’s psychiatric care. They are responsible for the maintenance of the ‘section’ including renewal, discharge and granting leave.</p>

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4. Relevant MHA sections

There are a small number of sections of the MHA that are of particular relevance to the detention of patients under MHA in our hospital. These are summarised below and procedures surrounding their application in practice are set out in the appendices:

Section	Description	Notes
Section 5 (2)	<p>Under Section 5(2) a doctor in charge of a patient's treatment may detain them for up to 72 hours so that they may undergo MHA assessment.</p> <p>Section 5(2) is a doctor's 'holding power' and can be applied by any fully registered medical practitioner (not FY1 doctor) to detain any admitted patient who the doctor suspects of having a mental illness necessitating substantive detention under the MHA.</p>	<p>When a patient is detained under Section 5(2), the Site Operations team <u>MUST</u> be contacted and involved so that a full MHA assessment can be arranged.</p> <p>Section 5(2) should only be applied where the doctor believes that the patient requires assessment for detention under the MHA. It is not simply a means of "holding a patient" and once detained under 5(2) the patient <u>must</u> be referred for formal MHA assessment.</p> <p>Section 5(2) ends when a formal mental health assessment is completed to determine either that the patient should or should not be detained under Section 2 or 3 of the MHA. Operation Centre staff must be made aware of the outcome of that assessment</p>
Section 2	<p>Under Section 2 of the MHA a patient may be detained in hospital for up to 28 days to be assessed.</p> <p>The 28 days runs from the point that the section papers are received on behalf of the managers of the Trust. (Day one of the 28 days is the day the papers are received).</p>	<p>Sections 2 and 3 of the MHA enable detention respectively for 28 days for assessment or 6 months for treatment of a mental disorder.</p> <p>The Site Operations team <u>MUST</u> be informed of any changes to a patient's mental health act status and will ensure that notification of sectioning using section 2 of the MHA is sent to the Mental Health Act Administrator.</p> <p>They only provide legal authority to treat physical problems if these are a direct cause or consequence of the mental disorder for which the patient has been detained.</p> <p>A Responsible Clinician will be nominated by Norfolk and Suffolk NHS Foundation Trust for patients detained under section 2 at NNUH (as per Appendix 1).</p> <p>Only the Responsible Clinician (or other nominated Deputy) can discharge the patient from detention or grant leave from the Hospital grounds.</p>
Section 3	<p>Under section 3, a patient may be detained for up to six months from the day of receipt of the section papers on behalf of the Hospital managers (the day of receipt is counted as day one).</p>	<p>The Site Operations team <u>MUST</u> be informed of any changes to a patients mental health act status and will ensure that notification of sectioning using section 3 of the MHA is sent to the Mental Health Act Administrator.</p>
Section 17 treatment leave	<p>Sometimes patients who are detained in a mental health unit will be given 'leave' to attend our hospital to receive care of a physical condition. When this occurs, they remain a 'detained' patient of the mental health unit, but permitted to attend a certain place (eg the hospital) for a specified period under specified conditions (e.g. under escort or unescorted).</p>	<p>If the patient has been transferred under section 17 leave, the Responsible Clinician remains responsible for their care under the MHA.</p> <p>Copies of the Section 17 form <u>MUST</u> be sent with the patient and immediately passed to the Site Operations Team. A copy <u>MUST</u> be retained in the patient's medical records and one sent via the Site Operations Team to the NNUH Mental Health Act Administrator (c/o Legal Services).</p>

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5 Notification of death or unauthorised absence of a service user who is detained or liable to be detained under the Mental Health Act 1983

The Site management Team MUST be immediately informed of any death or unauthorised absence of a patient detained under the MHA 1983.

The reporting team must provide the Site Operations Team with the following information:

- Location from where the patient is missing; or
- Circumstances of death; or
- Return of a patient from being absent.

The Site Operations Team will escalate in accordance with the Trust Policy on Missing Patients and inform the Mental Health Act Administrator who will liaise with the Chief Nurse and Medical Director to ensure that the relevant notification is sent to the CQC.

6 Audit / Monitoring Compliance

This Policy will be reviewed and monitored in accordance with the table at Appendix 5.

7 Associated Documentation

The Mental Health Act 1983 (as amended by the 2007 Act); Department of Health (2008) <http://www.legislation.gov.uk/ukpga/2007/12/contents>

Mental Health Act 1983 Code of Practice; Department of Health (2015) <https://www.gov.uk/government/publications/code-of-practice-mental-health-act-1983>

Reference Guide to the Mental Health Act 1983; (2015) <https://www.gov.uk/government/publications/mental-health-act-1983-reference-guide>

Trust Policy on Missing Patients – on Trust Docs

8 Equality Impact Assessment

This Policy has been reviewed and is not considered to have an adverse impact on any patient by virtue of a protected characteristic. This will be reviewed in conjunction with updates / amendments to this policy.

9 Sources of Advice

9.1 The MHA Code of Practice

Sets out extensive guidance on the application of the MHA in practice. The Code was revised in 2015 and the latest version is available at:

<https://www.gov.uk/government/publications/code-of-practice-mental-health-act-1983>

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The MHA Code of Practice provides guidance on most circumstances that are likely to arise in the circumstances of our hospital

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9.2 Mental Health Liaison Team

The Liaison Team will offer specialised mental health guidance and support to NNUH staff either via NNUH Ext 4686 or Bleep 0910 24 hours a day, 7 days per week.

9.3 Mental Health Act Administrator

(Board Secretary) & Legal Services – ext 2445 or 5671

**Non-Clinical Policy Administrative Arrangements Concerning Detention
of Patients under the Mental Health Act**
**Appendix 1: Letter of 15.11.2013 from Norfolk and Suffolk NHS Foundation Trust
confirming provision of Responsible Clinicians for patients detained under MHA
at NNUH**

Norfolk and Suffolk 
NHS Foundation Trust

Ref: ah.cwc.nov.01
Your ref: AD/JPG/vr/la.12.007
15th November 2013

Trust Management
1st Floor Admin Block
Hellesdon Hospital
Drayton High Road
Hellesdon
Norwich NR6 5BE

Anna Dugdale
Chief Executive
Norfolk & Norwich University Hospital
NHS Foundation Trust
Colney Lane
Norwich NR4 7UY

Tel: 01603 421102
Fax: 01603 421118

Dear Anna

Thank you for your letter dated 14 November 2013. I apologise that this situation has arisen and we are in agreement that we should be providing the care.

Our Trust will act as Responsible Clinician for the purposes of the Mental Health Act in relation to patients who are detained under the Act and require in-patient treatment at the NNUH and to this end, I have investigated the matter internally with both the medical and operation directors; we are taking steps to ensure that we provide this service.

We are keen as part of this process to review strong links between operational services so that issues such as this can be addressed on a timely basis. Can we meet to discuss this further?

Yours sincerely



Andrew Hopkins
Acting Chief Executive



Chair: Gary E Page
Acting Chief Executive: Andrew Hopkins
Trust Headquarters: Hellesdon Hospital,
Drayton High Road, Norwich, NR6 5BE
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**Non-Clinical Policy Administrative Arrangements Concerning Detention
of Patients under the Mental Health Act**

Appendix 2: Summary details of patient detained under the Mental Health Act

This is a template – please see [Trust Docs ID: 12055](#)

**(Please store in the notes and keep at front of the notes whilst the patient is an
inpatient at NNUH)**

Relevant MHA Section and date detained:	
Date detention expires: Section 5(2) = 72 hours Section 2 = 28 days Section 3 = 6 months	
Mental Health Responsible Clinician¹ (from NSFT)	
Nearest Relative and date they are informed of patient's detention.	
Date information is provided to patient about their rights in relation to detention (use patient information leaflets available on Trust Docs – search key word 'mental health')	

Other useful Information:

- Mental Health Liaison Team (Extension 4686; bleep 0910)
- Original section papers are sent to and held in the Operations Centre and then transferred with the patient if they are transferred to a mental health facility.
- **The Site Operations Team MUST be notified prior to transfer of the patient so that they can complete the transfer Form H4.**

¹ **Responsible Clinician** is a technical term within the MHA. It is not the patient's consultant at NNUH. It must be a MHA Approved Clinician. NSFT has agreed to nominate a Responsible Clinician for each patient detained under the MHA at NNUH. Unless already known, please contact the MHA administration office at NSFT to obtain details of the nominated Responsible Clinician (01603 421392). The Responsible Clinician is responsible for overseeing the patient's mental health care whilst under detention and they must approve any decision to transfer or discharge the patient.

Non-Clinical Policy Administrative Arrangements Concerning Detention of Patients under the Mental Health Act



Our Vision
To provide every patient
with the care we want
for those we love the most

Norfolk and Norwich University Hospitals



NHS Foundation Trust

Appendix 3 - Process for a patient to be detained under the Mental Health Act whilst an inpatient at NNUH

Non-Clinical Policy Administrative Arrangements Concerning Detention of Patients under the Mental Health Act



Our Vision

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Appendix 4: Process for patients transferred to NNUH from another health provider, whilst detained under Mental Health Act

Non-Clinical Policy Administrative Arrangements Concerning Detention of Patients under the Mental Health Act



Our Vision

To provide every patient
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Norfolk and Norwich University Hospitals



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Appendix 5: Process for patients transferred out of NNUH to another health provider, following detention under Mental Health Act whilst an inpatient at NNUH

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of Patients under the Mental Health Act**

Appendix 6: Monitoring Compliance / Effectiveness Table

Element to be monitored <i>(For NHSLA documents this must include all Level 1 minimum requirements)</i>	Lead Responsible for monitoring <i>(Title needed & name of individual where appropriate)</i>	Monitoring Tool / Method of monitoring	Frequency of monitoring	Lead Responsible for developing action plan & acting on recommendations	Reporting arrangements <i>(Committee group with monitoring and action progress reported)</i>
Accuracy and completeness of documentation as detailed in Appendices 2-4	Mental Health Act Administrator – JPG (Board Secretary)	Audit of documentation	6/12	Mental Health Act Administrator	Clinical Effectiveness