

Equality Analysis

Legislation requires that our policy and strategy documents consider the potential to affect groups differently and eliminate or minimise this where possible. This process helps to address inequalities by identifying steps that can be taken to ensure equal access, experience and outcomes for all groups of people.

Step One – Policy Definition

Function/policy name and number:	MENTAL HEALTH ACT ADMINISTRATION POLICY
Main aims and intended outcomes of the function/policy:	To provide guidance to all staff when using the Mental Health Act 1983 (amended 2007).
How will the function/policy be put into practice?	Patients are detained to DGFT and this policy will provide best practice guidance when using the MHA.
Who will be affected/benefit from the policy?	Staff and patients.
State type of document	Policy.
Is an EA required? NB :Most policies/functions will require an EA with few exceptions such as routine procedures-see guidance attached	Yes
Accountable Director: (Job Title)	Chief Nurse
Assessment Carried out by:	Lead for Mental Health and Complex Vulnerabilities
Date Completed:	31.07.24

To help you to determine the impact of the policy think about how it relates to the Public Sector Equality Duty, the key questions as listed below the and prompts for each protected characteristic included Step 3:

- Eliminate unlawful discrimination, victimisation, and harassment
- Advancing equality of opportunity
- Fostering good community relations

KEY QUESTIONS

- Are people with protected characteristics likely to be affected differently even though the policy is the same for everyone?
- Could there be issues around access, differences in how a policy is experienced and whether outcomes vary across groups?
- What information /data or experience can you draw on to indicate either positive or negative impact on different groups of people in relation to implementing this function policy?

Step Two – Evidence & Engagement

<p>What evidence have you identified and considered? This can include research ((national, regional ,local) surveys, reports, NICE guidelines, focus groups, pilot activity evaluations, clinical experts or working groups, information about Dudley’s demographics, The Dudley Group equality and diversity reports, Joint Strategic Needs Assessment (JSNA) or other equality analyses, Workforce Race and Disability Equality data, anecdotal evidence.</p>		
<u>Research/Publications</u>	<u>Working Groups</u>	<u>Clinical Experts</u>
<p>Monitoring the Mental Health Act in 2022/23 - CQC</p>		<p>Walsall Healthcare NHS Trust staff: Lead Mental Health Nurse Clinical Nurse Specialist Mental Health Act Administrator Medical Directorate Programme Lead</p>
<p>mentalhealth.org.uk</p>		
<p>The Mental Health Act 1983: Code of Practice.</p> <p>Detaining a patient under the Mental Health Act (1983) Standard Operating Procedure.</p> <p>Patients arriving on a section 136 in the Emergency Department Standard Operating Procedure.</p> <p>Assessing mental capacity, dealing with patients who lack capacity and complying with the Mental Capacity Act (MCA) 2005 policy</p> <p>Deprivation of Liberty Safeguards (DoLS) policy</p> <p>Children and adolescents with mental health concerns guideline</p>		
<p>Engagement, Involvement and Consultation:</p> <p>If relevant, please state what engagement activity has been undertaken and the date and with which protected groups:</p>		
<u>Engagement Activity</u>	<u>Protected Characteristic/ Group/ Community</u>	<u>Date</u>
<p>Consultation with a Mental Health Act Administrator and wider MH team based at Walsall NHS Healthcare to guide the process.</p>	<p>NHS professionals</p>	<p>July 2024</p>

Equalities and Wellbeing Workforce Team	All	August 2024
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For each engagement activity, please state the key feedback and how this affected / or will shape policy/service decisions (E.g. patient told us So we will):

Summary of the feedback:

- Limit the use of acronyms wherever possible, staff may be reading this policy when they need guidance to apply it, acronyms make it much harder to read particularly for anyone neurodiverse.
- Children are being admitted to children’s wards in acute hospitals due to lack of Tier 4 CAMHS beds. The MHA Code of Practice is clear that children and young people should be treated by staff who have the right training, skills and knowledge to understand and address their specific needs. This can compromise care of the child.
- Lack of community-based options of care means people find themselves in the wrong setting for their needs and/or with inappropriately trained staff or staff shortages. Autistic people and people with a learning disability detained in hospital can lead to a devastating impact. People with long term mental illness can result in physical or mental impairment which has a substantial and long-term adverse effect on the ability to carry out normal day-to-day activities. This may become a disability. This group may be impacted more by use of the MHA.
- Around 1 in 8 LGBT+ people have experienced unequal treatment from healthcare staff because they are LGBT+. One in 7 people have avoided treatment for fear of discrimination. Using wrong pronouns and names (or making assumptions) can make people feel unsafe or untrusting of staff and have a detrimental effect on their care. Guidance for the Health and Social Care Act is clear that people using services should be addressed in the way they prefer, and all communication must be respectful.
- Detention rates for Black or Black British people are over 3 and a half times higher than for people in White ethnic groups (227.9 detentions per 100,000 population compared with 64.1 detentions per 100,000 population).
- The Trust must respect the rights and needs of patients to avoid unlawful discrimination. Patient’s must have their correct pronouns used. Mental illness impacts men and women differently. Men are more likely to be detained under the MHA than women.
- LGBT+ people have a higher risk of having mental health issues, with research from Stonewall showing that half of LGBT+ people had experienced depression, and 3 in 5 had experienced anxiety.
- People from marginalised groups have disproportionate rates of mental ill health. The policy will support the process following detention.
- The MHA Code of Practice guiding principle on respect and dignity states that ‘there must be no unlawful discrimination’.

Step Three – Assessment of Impact

Complete **relevant** boxes below to help you record your assessment

Consider information and evidence from previous section covering:

- Engagement activities
- Equalities monitoring data
- Wider research

Also think about due regard under the general equality duty, NHS Constitution and Human Rights.

Positive Impact HIGH MEDIUM LOW	Negative Impact HIGH MEDIUM LOW	Neutral Impact (Tick)	<ul style="list-style-type: none"> • List concerns raised for possible negative impact OR • List beneficial impact (utilise information gathered during assessment)	Mitigation List actions to redress concerns raised if a negative impact has been identified in previous column	Lead [title]	Time-scale	How are actions going to be monitored/reviewed/ reported? (incl. after implementation)
Positive OR Negative Impact (not both)							
1) Age							
Describe age related impact and evidence. This can include safeguarding, consent and welfare issues:							
	High		Children are being admitted to children's wards in acute hospitals due to lack of Tier 4 CAMHS beds. The MHA Code of Practice is clear that children and young people should be treated by staff who have the right training, skills and knowledge to understand and address their specific needs. This can compromise care of the child.	The policy will support high standards and adherence to best practice. This includes avoidance of children being admitted to DGFT beds where possible.	Lead for Mental Health and Complex Vulnerabilities	On going review of impact through audit of MHA processes.	Monitoring of the use of the MHA and detention of patients to DGFT, including children to identify if this is an area of concern.
2) Disability							
Describe disability related impact and evidence. This can include attitudinal, physical, communication and social barriers as well as mental health/ learning disabilities, cognitive impairments:							
	High		Lack of community-based options of care means people find themselves in the wrong setting for their needs and/or with inappropriately trained staff or staff shortages.	The policy will support high standards and adherence to best practice.	Lead for Mental Health and Complex Vulnerabilities	On going review of impact through audit of MHA processes.	Monitoring of the use of the MHA and detention of patients to DGFT, including people with a disability that may be impacted by this. Are they disproportionality represented?

	Medium	<p>Autistic people and people with a learning disability detained in hospital can lead to a devastating impact. People with long term mental illness can result in physical or mental impairment which has a substantial and long-term adverse effect on the ability to carry out normal day-to-day activities. This may become a disability. This group may be impacted more by use of the MHA.</p> <p>Limit the use of acronyms wherever possible, staff may be reading this policy when they need guidance to apply it, acronyms make it much harder to read particularly for anyone neurodiverse.</p>	<p>Review policy language to ensure it is easy to read for new staff or staff who are neurodiverse.</p>			
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3) Gender re-assignment

Describe any impact and evidence on transgender people. This can include issues such as privacy of data and harassment:

High	<p>Around 1 in 8 LGBT+ people have experienced unequal treatment from healthcare staff because they are LGBT+. One in 7 people have avoided treatment for fear of discrimination. Using wrong pronouns and names (or making assumptions) can make people feel unsafe or untrusting of staff and have a detrimental effect on their care. Guidance for the Health and Social Care Act is clear that people using services should be addressed in the way they prefer, and all communication must be respectful.</p>	<p>The policy will support high standards and adherence to best practice.</p>	<p>Lead for Mental Health and Complex Vulnerabilities</p>	<p>On going review of impact through audit of MHA processes.</p>	<p>Monitoring of the use of the MHA and detention of patients to DGFT, including a review of people with gender reassignment.</p>
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4) Marriage and civil partnership

Describe any impact and evidence in relation to marriage and civil partnership. This can include working arrangements, part-time working, and caring responsibilities:

		X					
5) Pregnancy & Maternity Describe any impact and evidence on pregnancy and maternity. This can include working arrangements, part-time working, and caring responsibilities:							
		X					
6) Race Describe race related impact and evidence. This can include information on different ethnic groups, Roma gypsies, Irish travellers, nationalities, cultures, and language barriers:							
	High		Detention rates for Black or Black British people are over 3 and a half times higher than for people in White ethnic groups (227.9 detentions per 100,000 population compared with 64.1 detentions per 100,000 population).	The policy will support high standards and adherence to best practice. It is essential that race of patients is being recorded to help review this area.	Lead for Mental Health and Complex Vulnerabilities	On going review of impact through audit of MHA processes.	Monitoring of the use of the MHA and detention of patients to DGFT, including race of patients to identify if this is an area of concern.
7) Religion or Belief Describe any religion, belief or no belief impact and evidence. This can include dietary needs, consent and end of life issues:							
		X					
8) Sex Describe any impact and evidence on men and women. This could include access to services and employment:							
	High		The Trust must respect the rights and needs of patients to avoid unlawful discrimination. Patient's must have their correct pronouns used. Mental illness impacts men and women differently. Men are more likely to be detained under the MHA than women.	The policy will support high standards and adherence to best practice.	Lead for Mental Health and Complex Vulnerabilities	On going review of impact through audit of MHA processes.	Monitoring of the use of the MHA and detention of patients to DGFT, including sex of patients to identify if this is an area of concern regarding rates of detention under the MHA.
9) Sexual Orientation Describe any impact and evidence on heterosexual people as well as lesbian, gay and bisexual people. This could include access to services and employment, attitudinal and social barriers:							

	High		LGBT+ people have a higher risk of having mental health issues, with research from Stonewall showing that half of LGBT+ people had experienced depression, and 3 in 5 had experienced anxiety.	The policy will support high standards and adherence to best practice should use of the MHA take place with people from this background.	Lead for Mental Health and Complex Vulnerabilities	On going review of impact through audit of MHA processes.	Monitoring of the use of the MHA and detention of patients to DGFT. Including monitoring this is relation to sexual orientation of patients impacted.
10)Other marginalised groups e.g. Homeless people Describe any impact and evidence on groups experiencing disadvantage and barriers to access and outcomes. This can include lower socio-economic status, resident status (migrants, asylum seekers), homeless, looked after children, single parent households, victims of domestic abuse, victims of drugs / alcohol abuse: (This list is not exhaustive)							
	High		People from marginalised groups have disproportionate rates of mental ill health. The policy will support the process following detention.	The policy will support high standards and adherence to best practice should use of the MHA take place with people from this background.	Lead for Mental Health and Complex Vulnerabilities	On going review of impact through audit of MHA processes.	Monitoring of the use of the MHA and detention of patients to DGFT. Including monitoring this is relation to all marginalised groups.
11)Privacy, dignity, respect, fairness etc.							
	Medium		The MHA Code of Practice guiding principle on respect and dignity states that 'there must be no unlawful discrimination'.	The policy support patients to be able to follow the correct processes when under the MHA, including understanding their rights, access to appeal against detention and the resources to action this.	Lead for Mental Health and Complex Vulnerabilities	On going review of impact through audit of MHA processes	Monitoring of the use of the MHA and detention of patients to DGFT.

EQUALITY ANALYSIS - GUIDANCE NOTES

Equality Analysis is a tool for ensuring that issues for equality, diversity and inclusion are considered when drawing up or revising policies or proposals which affect the delivery of services and the employment practice of the Trust.

Why do carry out Equality Analysis?

We are required to carry out equality impact assessments because:

- There is a legal requirement to do so in relation to the protected characteristics
- They are helpful in identifying gaps and make improvements to services
- They help avoid continuing or adopting harmful policies or procedures
- They help you to make better decisions
- They will help you to identify how you can make your services more accessible and appropriate
- They enable the Trust to become a better employer

Equality Impact Assessments help us to:

- Determine how Trust policies and practice, or new proposals, will impact or affect different communities, groups, especially those groups or communities who experience inequality, discrimination, social exclusion or disadvantage.
- Measure whether policies or proposals will have a negative, neutral, or positive effect on different communities.
- Make decisions about current and future services and practice in fuller knowledge and understanding of the possible outcomes for different communities or customer groups.

What do we need to assess?

Trust policies are subject to a 3-year review. Alongside the reviews new policies will emerge. Most policies, strategies, and business plan will need an EA.

However, EAs are not required in relation changes in routine procedures, administrative processes or initiative that will not have a material impact on staff, patients, carers and the wider community. Examples include things such as checking the temperature of fridges, highly technical clinical procedures, office moves etc.

DGFT Process for EAs

The revised EA process is a single stage process carried out in three steps

Step One: Policy Definition

This involves a description of the policy details. This also decides whether the policy under consideration needs an assessment

Step Two: Evidence and Engagement

EAs should be underpinned by sound data and information. This should be sought from a variety of sources including information on Trust record systems, consultation and engagement activities, demographic information sources etc

Step Three: Assessment of Impact

This is the main and the most important part of the EA.

To help you to determine the impact of the policy think about how it relates to the Public Sector Equality Duty, the key questions as listed below and prompts for each protected characteristic.

- Eliminate unlawful discrimination, victimisation, and harassment
- Advancing equality of opportunity
- Fostering good community relations

KEY QUESTIONS

- What information /data or experience can you draw on to indicate either positive or negative impact on different groups of people in relation to implementing this function policy
- Are people with protected characteristics likely to be affected differently even though the policy is the same for everyone?
- Could there be issues around access, differences in how a service or policy is experienced and produces outcomes that vary across different groups ?
- Does the policy relate to the Trust's equality objectives?

NB It is important that, where adverse impact is known or is likely, mitigation measures must be identified and acted upon to reduce or minimise the impact.

Step Four: Assurance

This section enables the EA to be signed off