

MENTAL HEALTH ACT 1983

**Reading of Rights
(Section 132, 132A & 133) Policy**

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Purpose of the Policy:	Ensure that Cambridge & Peterborough NHS Foundation Trust recognises its responsibilities under the MHA to inform all detained patients and their Nearest Relatives (NR) certain information upon, or immediately after admission, relating to their detention and their rights under the Act, as well as ensuring that these responsibilities are reflected in procedures for staff to carry out set tasks at set times. Protect patients relevant human rights act (HRA 1998)
If developed in partnership with another agency, ratification details of the relevant agency	Original policy was developed in consultation with all relevant CPFT Directorates
Policy in-line with national guidelines:	MHA 1983 MHA CoP 2015 HRA 1998 MCA 2005

Signed on behalf of the Trust:
Tracy Dowling, Chief Executive

Version Control Sheet

Version	Date	Author	Comments
2.0	March 2015	Orna Clark Mental Health Law Manager	Complete review and re-write of the original policy, around the approved Reading Of Rights SOPs and Forms. Inclusion of an Informal Patients Rights Form.
2.1	March 2018	Orna Clark Mental Health Law Manager	Scheduled review of the policy (Minor changes) Change in role titles, Meeting Titles, additional information on weekly monitoring and reporting of reading of right. Details of interpreter service. Change in Advocacy Service name. Link to rights leaflets in different languages and details on accessing information in a different format (Braille, easy read etc.) Appendix 7 – Human Rights information page.

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1. Assurance Statement

The purpose of this Policy is to ensure that Cambridge & Peterborough NHS Foundation Trust (thereafter referred to as 'the Trust') recognises its responsibilities under the Mental Health Act 1983 to inform and provide all detained patients and their Nearest Relatives (NR) certain information upon, or immediately after admission, relating to their detention and their rights under the Act, as well as ensuring that these responsibilities are reflected in procedures for staff to carry out set tasks at set times. The Trust acknowledges that the provision of rights is not just a statutory duty, but is important to patients, family/carers and staff. It will ensure that patients will be given assistance in exercising their rights while they are detained.

2. Introduction

Sections 132 and 132A and 133 of the MHA 1983 place a responsibility upon the 'Hospital Managers' (i.e. the Trust) to take all practicable steps to ensure that all detained patients and their Nearest Relative (NR) are given certain information upon admission. In practice, this function is delegated to staff of the Trust as distinguished below. S132 refers to giving the rights to patients detained in hospital, S132A refers to giving the rights to patients detained under a Community Treatment Order (CTO) and S133 provides a duty to inform the NR of the patient's discharge from detention (including discharge from S17A – CTO).

- 2.2 This procedure must be read in conjunction with the **MHA Code of Practice (CoP) 2015, in particular; Chapter 1 – the Guiding Principles, Chapter 3 - Human rights, equality and health inequalities and Chapter 4 - 'Protecting Patients' Rights and Autonomy'**. The CoP provides statutory guidance to registered medical practitioners, approved clinicians, managers and staff of providers, and approved mental health professionals on how they should carry out functions under the MHA in practice. It is statutory guidance for registered medical practitioners and other professionals in relation to the medical treatment of patients suffering from mental disorder.
- 2.3 Staff must ensure that they are familiar with its contents and should reason and record any deviation in practice from the guidance outlined in the CoP in the patient's RiO clinical records.
- 2.4 **The five Guiding Principles** - It is essential that all those undertaking functions under the Act understand the five sets of overarching principles, which should always be considered when making decisions in relation to care, support or treatment provided under the Act. This chapter provides an explanation of the overarching principles and stresses that they should be considered when making decisions under the Act. Although all are of equal importance the weight given to each principle in reaching a particular decision will depend on context and the nature of the decision being made.

2.4.1 The five overarching principles are:

- **Least restrictive option and maximising independence** - Where it is possible to treat a patient safely and lawfully without detaining them under the Act, the patient should not be detained. Wherever possible a patient's independence should be encouraged and supported with a focus on promoting recovery wherever possible.
- **Empowerment and involvement** - Patients should be fully involved in decisions about care, support and treatment. The views of families, carers and others, if appropriate, should be fully considered when taking decisions. Where decisions are taken, which are contradictory to views expressed, professionals should explain the reasons for this.
- **Respect and dignity** - Patients, their families and carers should be treated with respect and dignity and listened to by professionals.
- **Purpose and effectiveness** - Decisions about care and treatment should be appropriate to the patient, with clear therapeutic aims, promote recovery and should be performed to current national guidelines and/or current, available best practice guidelines.
- **Efficiency and equity** - Providers, commissioners and other relevant organisations should work together to ensure that the quality of commissioning and provision of mental healthcare services are of high quality and are given equal priority to physical health and social care services. All relevant services should work together to facilitate timely, safe and supportive discharge from detention.

2.5 Human Rights Act (HRA)1998

In addition to CoP Chapter 3 - Human rights, equality and health inequalities, Information on Human Rights Articles particularly relevant to Mental Health Legislation can be found in appendix 7.

3. Purpose

- 3.1 The purpose and aim of this policy is to:
- 3.2 Standardise practice and processes of providing information.
- 3.3 Clarify and provide guidance to staff responsible for delivering the information.
- 3.4 Provide a framework to staff on the information that should be given to detained patients and their Nearest Relatives (NR).
- 3.5 Identify who should deliver this information and the expected frequency of the delivery of information.
- 3.6 To ensure that all detained patients and patients subject to Community Treatment Order (CTO) receive written information about their position and rights.

- 3.7 To ensure that all such patients also receive verbal explanation and reinforcement of the above, i.e. regularly reminded of their rights.
- 3.8 To ensure that Interpreters and rights leaflets in the relevant language are fully used, as necessary, to support the above.
- 3.9 To ensure that the reading of rights is fully documented on the Trust's 'Reading of Rights' form and in the patient's care plan.
- 3.10 To ensure understanding that although Section 132/132A is specific to detained/CTO patients, information regarding access to and from the ward, as well as legal rights should also be given to informal patients.

4. Scope

This policy applies to:

- 4.1 All patients liable to be detained under the Mental Health Act 1983 (either in hospital or in the community)
- 4.2 All staff employed by Cambridgeshire & Peterborough NHS Foundation Trust.
- 4.3 Detained patients have a legal right under the Mental Health Act 1983 to be informed of their detention status and rights. It is essential to ensure that patients are kept fully and regularly informed of their rights and involved in their care plan. This includes all statutory matters that have a bearing on their care and rehabilitation within the Trust and upon discharge from detention.
- 4.4 Though Section 132 is specific to detained patients, information regarding legal rights should also be given to informal patients, so that if they wish to leave hospital, this is discussed with their Consultant Psychiatrist in order that appropriate arrangements are put in place for their discharge. Informal patients cannot legally be prevented from leaving the unit if they wish to do so, however, staff can make a decision about the immediate level of risk posed to the service user and may consider use of the Mental Health Act if the risk is high (for example, section 5.2 or 5.4). If the use of the Mental Health Act is not appropriate, then informal patients are eligible to discharge themselves from the hospital if they do not agree to the guidelines set out for their treatment (Refer to the Trust's Controlled Access Policy for further information)
- 4.5 It is important that information is also given to patients as soon as practicable when their status is changed from detained to informal and from informal to detained under the Mental Health Act. This should happen whether the change in status is planned or not, for example, if detention papers are found to be invalid or a section inadvertently lapses.
- 4.6 Information should be given to each patient in a language and manner that best enables the patient to understand it. Trust staff should provide all the assistance required by patients who need help in exercising their statutory rights.

5. Definitions

- 5.1 **Mental Health Act 1983 (MHA 83)**

The Mental Health Act is the legislation governing all aspects of compulsory admission to hospital, as well as the treatment, welfare, and after-care of detained patients. It also allows for the supervision of people in the community. It provides for mentally disordered persons who need to be detained in hospital in the interests of their health, their own safety or the safety of other persons. Compulsory admission to hospital is often referred to as “sectioning”. Altogether there are over 149 separate sections, not all of them allow for detention. The Mental Health Act sets out when and how a person can be sectioned and ensures that the rights of those detained are protected.

5.2 ‘Hospital Managers’ (HM)

Hospital Managers have a central role in operating the provisions of the Mental Health Act. In NHS Foundation Trusts, the Trust itself is defined as the ‘Hospital Managers’ (or the Board of Directors) It is the ‘Hospital Managers’ who have the power to detain patients who have been admitted under the Act and who have the key responsibility for ensuring that the requirements of the Act are followed. In particular they must ensure that patients are detained only as the Act allows that their treatment and care accord fully with its provisions and that they are fully informed of and are supported in exercising their statutory rights. In practice the ‘Hospital Managers’ (not to be confused with ‘Mental Health Act Managers’) delegate those duties to the appropriate professionals working for the Trust, such as, Clinical and Nursing staff, as well as Mental Health Act Administrators and Mental Health Act Managers (Also see CPFT “MHA Scheme of Delegation Document”).

5.3 Responsible Clinician (RC)

The Responsible Clinician is the approved clinician with overall responsibility for a patient’s case. Certain decisions (such as renewing a patient’s detention or placing a patient on Community Treatment Order) can only be taken by the Responsible Clinician.

5.4 Nearest Relative (NR)

The Nearest Relative is a specific legal term which is identified through a hierarchical list contained within Section 26 of the Act. The NR must not be confused with the term ‘next of kin’ (a person’s next of kin is their closest relative and this is relevant when, for example, a person has died). The MHA gives a patient’s NR some rights and powers in relation to detention, discharge and being informed or consulted when certain actions have been taken under the MHA, or when these are being proposed. The role of a NR is limited to these rights and powers under the Act. Initially, a person has no choice over who is identified as his or her NR, however, the Act gives detained patients the right to apply to the County Court for the displacement of their NR. The ‘Hospital Managers’ have a legal duty to inform the NR (unless the patient objects) or consult with about the patient becoming subject to the provisions of the Act, which includes the right to order discharge of the patient and to object to some provisions of the Act. (For additional information refer to the CPFT “Section 26 – The Rights and Role of the Nearest Relative” policy)

5.5 Section 17A Community Treatment Order (CTO)

CTO refers to patients who are living in the community but continue to be detained using Section 17A of the Mental Health Act. The purpose of CTO is to allow suitable patients to be safely treated in the community rather than

under detention in hospital (For additional information refer to CPFT “Section 17A – Community Treatment Order” Policy)

5.6 Independent Mental Health Advocates (IMHAs)

(IMHAs) is a statutory right and safeguard for people detained under the MHA. The objective of an IMHA is to provide support and represent the personal views of the patient. IMHAs may be involved in providing patients with information on their rights, medication and any restrictions or conditions to which they are subject. It is important to take whatever steps are practicable to ensure that patients understand that help is available to them from the IMHA services and how they can obtain that help both verbally and in writing. It is also important that mental health professionals are MHA aware and keep themselves up to date with this statutory right and safeguard through training, promoting awareness and communication so that they are in a better position to relay this statutory information to the patient on a regular basis. (For additional information, see CPFT “Working with IMHA Policy and Procedures”)

5.7 First Tier Mental Health Act Review Tribunal Service

The Mental Health Act Review Tribunal Service (MHRT) is an independent judicial body. Its main purpose is to review the cases of detained, conditionally discharged, and CTO patients under the Act and to direct the discharge of any patients where it thinks it Appropriate. It also considers applications for discharge from guardianship. The First Tier Tribunal provides a significant safeguard for patients who have had their liberty curtailed under the Act. (For additional information, see CPFT “First Tier Mental Health Act Tribunals” policy)

5.8 Second Opinion Approved Doctor (SOAD).

Second Opinion Appointed Doctor, who is appointed through the Mental Health Act Commission, provides a safeguard for detained patients in the event that, in the absence of the patient’s consent to treatment through refusal or lack of capacity, the Responsible Clinician wishes to impose treatment. Treatment for patients on a CTO needs to be approved by a SOAD even if the patient agrees to the treatment.

5.9 Code of Practice (Revised in 2015)

The Code of Practice gives guidance to registered practitioners, approved clinicians, managers and staff of hospitals and mental health act professionals on how they should proceed when undertaking duties under the Act.

5.10 Mental Health Act Care Quality Commission (CQC)

The CQC is an independent body which is responsible for monitoring the operation of the Mental Health Act. The CQC is also the body that acts as the health and social care regulator. The CQC also provides the service of the Second Opinion Appointed Doctors (SOAD) when necessary.

6. Duties and Responsibilities

6.1 Chief Executive

The Chief Executive has overall responsibility for ensuring that appropriate arrangements are in place for compliance with the Mental Health Act 83 (as

amended in 2007) which include compliance with sections 132, 132A and 133 (Provision of information to detained patients and their Nearest Relatives)

6.2 Executive Directors

The Medical Director has key responsibility for ensuring the development, implementation and monitoring of this policy.

6.3 Associate Director Operations Social Work/Professional Lead, AMHP Manager and Social Care Leads

Responsible for ensuring that Approved Mental Health Professionals (AMHPs) and staff within their service comply with the policy, inform and consult the patient's NR and inform detained patients of their rights under the MHA.

6.4 Directorate Senior Management

This includes the General Managers, Service Managers, Team Managers and Team Leaders, who are responsible for the effective and consistent implementation of this policy within their respective services and teams and in particular, for ensuring that patients are provided with their rights in accordance with the required processes as laid out within this policy.

6.5 Ward Manager and Nursing Staff

The Ward Manager and the ward's nurse in charge on duty at the time the patient is placed on a section or received on to the unit, are responsible for ensuring the information is given. The information should be given to patients as soon as practicable after the commencement of the patient's detention and as soon as practicable after a different section of the Act is used to authorise detention. In practice this will mean that the patient will have to be told immediately if he or she is detained for 72 hours or less and include those patients subject to recall to hospital under Community Treatment Order. If the patient has not been recalled to a particular ward then the Bleep Holder of the hospital the patient has been recalled to will be responsible for ensuring the policy is adhered to.

The nurse in charge of the ward is responsible for reading detained patients their rights soon after admission and documenting this on the Trust's 'Reading of Rights' form, as well as the patient's care plan. Both documents must be uploaded/updated on the patient's RiO electronic records. They are also responsible for re-reading rights where patients have not understood their rights, or when their understanding has lapsed and for referring the patient to the Independent Mental Health Act Advocates (IMHA) service, and/or an interpreter as appropriate.

6.7 Care Co-ordinator

The patient Care Co-ordinator is responsible for reading the rights for CTO patients, in line with Trust policy and guidelines and to documenting this on the Trust's 'Reading of Rights' form, as well as the patient's health records case-notes. The Care Co-ordinator is also responsible for re-reading rights where patients have not understood their rights, or when their understanding has lapsed and for referring the patient to the Independent Mental Health Act Advocates (IMHA) service, and/or an interpreter as appropriate.

6.8 Locality Mental Health Act Administrators

The Locality MHA Administrators are responsible for writing to patients detained under the MHA and providing them with written information about

their rights, as well as local arrangements for appealing. The MHA Administrators inform the patient's Nearest Relative (NR) providing that the patient does not object, to inform them of the patient and their legal rights. The MHA Administrators also provide advice to staff as necessary. Mental Health Act Administrators have a responsibility to collect and monitor the completion of the patient rights forms. Section 132 forms must be scrutinised to ensure that patient rights have been presented and revisited in full both orally and in writing on regular intervals. MHA Administrators must also ensure they send weekly reminders to Ward/Team staff when the rights should be revisited if they have not already been done so and to ensure a monitoring form is in place where one can not be located. All incomplete or poorly completed forms will be flagged back to the Ward Manager/Deputy immediately.

6.9 Mental Health Law Manager

The Mental Health Law Manager has overall responsibility for developing and implementing this policy and procedures. For ensuring that the reading of rights policy and procedures are adhered to, regularly monitored and to inform Ward and Team Managers, as well as the Directorate General Managers of the outcome of the monthly audits and non-compliance with the policy. Mental Health Legislation Manager is also responsible for providing training and advice to staff on the MHA and this section's legal requirements, as well as report performance to the Directorates' MDTs and PREs, as well as to the Board and the Safety, Quality and Governance Committee, via the MH Law Policy & Practice Group.

7 Section 132, 132A and 133 Information (To be read in conjunction with Appendices 1, 2, 3 and 4)

- 7.1 Particular and relevant information should be given to each patient, as part of the admissions process, about the nature and implications of admission on a Section in order to ensure that the patient understands their legal rights.
- 7.2 Section 132 (detained inpatients) and 132A (Community Treatment Order patients) requires the Trust to take steps as are practicable to ensure a detained patient understands:
 - 7.2.1 Under which provision of the MHA the patient is detained and the effect of that provision; AND
 - 7.2.3 What rights of applying to the First Tier Mental Health Tribunal Services are available to them in respect of their detention under that provision Section 132 & 133.
- 7.3 Section 132 and 132A state that the above steps shall be taken as soon as practicable after the commencement of the patient's detention under the provision in question.
- 7.4 The information has to be given to the patient both orally and in writing.
- 7.5 Unless the patient objects, the 'Hospital Managers' must also ensure the NR (if known) is provided with a copy of any information given to the patient at the same time or within a reasonable time afterwards.

- 7.6 The locality Mental Health Act Administrator is responsible for sending a letter to the Nearest Relative, informing them of the patient's section details, the right to appeal and the IMHA service. The letter will be copied to the patient. A copy of the letter will also be filed in the patient's electronic RiO MHA document folder and in the patient's Manual Section File, which is held in the locality's Patient Services Office. **It should be noted however that if the patient objects to their NR receiving the information** and this is documented on the Trust's 'Reading of Rights' form and in the RiO 'Consent to Share Information' section - the Mental Health Act Administrator will not be sending the information letter to the NR. If the patient's RC feels that in the best interest of the patient, the information letter should be sent to the NR despite the patient's objection, he/she should inform the Mental Health Act Administrator of their decision and record the reasons in the patient's RiO Consent to Share Information section. (See CPFT 'Sharing Information Without Consent' SOP and Checklist)
- 7.7 Section 133 provides a duty for the 'Hospital Managers' to inform the NR of discharge (including discharge under S17A) and this is to be given at least seven days before the discharge if practicable. To facilitate this, it will be necessary for the patients' RC to inform the Mental Health Act Administrator of the planned discharge.
- 7.8 The requirement to inform the NR does not apply if either the patient or their NR has requested that information about the patients' discharge should not be given under this section.

8 Information about Detention and CTO (See appendices 1 and 3)

- 8.1 The Patient **must** be informed of;
- 8.1.1 Which provision of the Act the patient is detained under or on CTO and the effect of those provisions.
- 8.1.2 Of the rights (if any) of their NR to discharge them (and what can happen if their RC does not agree with that decision); and
- 8.1.3 For CTO patients, of the effect of the Community Treatment Order, including the conditions which they are required to keep to and the circumstances in which their RC may recall them to hospital.
- 8.2 As part of this, the patient should also be informed of:
- 8.2.1 The reasons for their detention. This should include the essential legal and factual grounds for their detention or CTO. For the patient to be able to effectively challenge the grounds for their detention or CTO, should they wish, they should be given the full facts rather than simply the broad reasons. This should be done promptly and clearly.
- 8.2.2 The maximum length of the current period of detention
- 8.2.3 That their detention or CTO may be ended at any time if it is no longer required or the criteria for it are no longer met;
- 8.2.4 That they will not automatically be discharged when the current period of detention or CTO ends; and

- 8.2.5 That their detention or CTO will not automatically be renewed or extended when the current period of detention or CTO ends.

9 Information about Consent to Treatment

- 9.1 Patients must be told what the Act says about treatment for their mental disorder. In particular they must be told:
 - 9.1.1 The circumstances (if any) in which they can be treated without their consent and the circumstances in which they have the right to refuse treatment;
 - 8.1.2 The role of second opinion appointed doctors (SOADs) and the circumstances in which they may be involved; and
 - 8.1.3 Where relevant, the rules on electro-convulsive therapy (ECT).

10. Information about seeking a review of detention or CTO

- 10.1 Patients must be informed:
 - 10.1.1 Of the right of the RC and the 'Hospital Managers' to discharge them (and, for restricted patients, that this is subject to the agreement of the Secretary of State for Justice);
 - 10.1.2 Of their right to ask the 'Hospital Managers' to discharge them;
 - 10.1.3 That the 'Hospital Managers' must consider discharging them when their detention is renewed or their CTO extended;
 - 10.1.4 Of their rights to apply to the First Tier Mental Health Act Tribunal;
 - 10.1.5 Of the rights (if any) of their NR to apply to the Tribunal on their behalf;
 - 10.1.6 About the role of the Tribunal; and how to apply to the Tribunal; and
 - 10.1.7 How to contact any other organisation which may be able to help them make an application to the Tribunal e.g. Independent Mental Health Advocacy (IMHAs).
- 10.2 'Hospital Managers' should ensure that patients are offered assistance to request a 'Mental Health Act Managers' hearing or make an application to the Tribunal. They should also be told:
 - 10.2.1 How to contact a suitably qualified legal representative (and should be given assistance to do so if required);
 - 10.2.2 That free legal aid may be available.
- 10.3 It is particularly important that patients on CTO who may not have daily contact with people who could help them make an application to the Tribunal are informed and supported in this process.

- 10.4 CTO patients whose community treatment orders are revoked, and conditionally discharged patients recalled to hospital, should be told that their cases will be referred automatically to the Tribunal.

11. Information about the Care Quality Commission (CQC)

- 11.1 Patients must be informed about the role of the CQC and of their right to meet visitors appointed by the Commission in private. Patients should be told when the CQC is to make an announced visit to their ward and reminded of the Commission's role.
- 11.2 Patients may also make a complaint to the CQC and they should be informed of the process for this. Support should be made available to patients to do this, if required. Patients should also be given information about the PALs Service and the Trust's complaints process and how to use it.

12. Information for Nearest Relatives (NR)

- 12.1 When a patient detained under the Act or on CTO is given their rights information, they should be told that the written information will also be posted to their NR, so that they have a chance to object.
- 12.2 The NR should also be told of the patient's discharge from detention or CTO (where practicable), unless either the patient or the NR has requested that information about discharge should not be given. This includes discharge from detention onto CTO. If practicable, the information should be given at least seven days in advance of the discharge.
- 12.3 In addition, regulations require the NR to be informed of various other events, including the renewal of a patient's detention, extension of CTO and transfer from one hospital to another.
- 12.4 These duties to inform the NR are not absolute. In almost all cases, information is not to be shared if the patient objects.
- 12.5 There will occasionally be cases where these duties do not apply because disclosing information about the patient to the NR cannot be considered practicable, on the grounds that it would have a detrimental impact on the patient that is disproportionate to any advantage to be gained from informing the NR. This would therefore be a breach of the patient's right to privacy under the European Convention on Human Rights. The risk of this is greatest where the NR is someone whom the patient would not have chosen themselves.
- 12.6 Before disclosing information to the NR without a patient's consent, the person concerned must consider whether the disclosure would be likely to:

Put the patient at risk of physical harm or financial or other exploitation;

Cause the patient emotional distress or lead to a deterioration in their mental health; or

Have any other detrimental effect on their health or wellbeing, and if so whether the advantages to the patient and the public interest of the disclosure

outweigh the disadvantages to the patient, in the light of all the circumstances of the case.

- 12.7 Any disclosure of information without the patient's consent should be recorded on RiO Consent to Share Information page and the outcome should be communicated to the locality MHA Administrator. (Guidance on sharing information without consent – SOP and Checklist - can be found in the Trust's Access to Records/DPA Policy & Procedures)
- 12.7 The MHA Administrator will be responsible for ensuring a letter is sent to the NR. The letter will be copied to the patient. A copy of the letter will also be filed in the patient's RiO MHA Document Folder and the patient's Manual Section File records (which is held in the locality's Patient Services Office).

13. Communication with other people nominated by the patient

- 13.1 Patients may want to nominate one or more people who they would wish to be involved in, or notified of, decisions related to their care and treatment.
- 13.2 Patients may nominate an independent mental health advocate, another independent advocate or a legal professional. But they may also nominate a relative, friend or other informal supporter.
- 13.3 The involvement of such friends, relatives or other supporters can have significant benefits for the care and treatment of the patient. It can provide reassurance to the patient, who may feel distrustful of professionals who are able to impose compulsory measures on them, or are relatively unfamiliar and unknown to the patient. People who know the patient well can provide knowledge of the patient and perspectives that come from long-standing and intimate involvement with the patient prior to (and during) their involvement with mental health services. They can provide practical assistance in helping the patient to convey information and views and may have knowledge of advance decisions or statements made by the patient
- 13.4 Professionals should normally agree to a patient's request to involve relatives, friends or other informal supporters. They should tell the patient whenever such a request will not be, or has not been, granted. Where a patient's request is refused, it is good practice to record this in the patient's notes, giving reasons for the refusal. It may not always be appropriate to involve another person as requested by the patient, for example where:
Contacting and involving the person would result in a delay to the decision in question that would not be in the patient's best interests;

The involvement of the person is contrary to the best interests of the patient; or that person has requested that they should not be involved.

- 13.5 Professionals should also take steps to find out whether patients who lack capacity to take particular decisions for themselves have an attorney or deputy with authority to take the decision on their behalf. Where there is such a person, they act as the agent of the patient, and should be informed in the same way as the patient themselves about matters within the scope of their authority.

13.6 **Patients may also have advance statements in place that list the names of other people who they wish to be consulted and involved in their care.** The Multi-disciplinary team should check whether an advance statement is in place.

13.7 If the patient doesn't have an advance statement **they should be assisted in completing one to be kept on record for future admissions or detentions**

14. Involvement of carers

14.1 Carers frequently play a vital role in helping to look after relatives and friends who have mental disorders. It is important to identify all individuals who provide regular and substantial care for patients, to ensure that health and social services assess those carers' needs and, where relevant, provide services to meet them.

14.2 Unless there are reasons to the contrary, patients should be encouraged to agree to their carers being involved in decisions under the Act and to them being kept informed.

14.3 If patients lack capacity to consent to this, it may be appropriate to involve and inform carers if it is in the patient's best interests – although that decision must always be made in the light of the specific circumstances of the case.

14.4 In order to ensure that carers can, where appropriate, participate fully in decision-making, it is important that they have access to:
Practical and emotional help and support to help them to participate; and
Timely access to comprehensive, up-to-date and accurate information.

14.5 Even if carers cannot be given detailed information about the patient's case, where appropriate they should be offered general information which may help them understand the nature of mental disorder, the way it is treated, and the operation of the Act.

15. Information for patients' children

15.1 In considering the kind and amount of information which children and young people (especially young carers) should receive about a parent's condition or treatment, the people giving the information will need to balance the interests of the child or young person against the patient's right to privacy and their wishes and feelings. Any such information should be appropriate to the age and understanding of the child or young person

16. Process of providing information

16.1 As soon as a patient is detained under the MHA 1983 they must be given their rights orally and in writing, unless it is not practicable¹ at that time. If this is the case, it must be documented in the nursing notes. This will mean that the patient should be told immediately if s/he is detained for 72 hours or less.

16.2 If the nurse providing the information considers a patient is too unwell to be given such information, or to understand or retain it, further attempts must be made on a regular basis (at least once in any 7 day period). If there are concerns these should be raised with a senior nurse. All attempts must be recorded on the form at Appendix 2.

- 16.3 When providing information to the patient in writing there are standard leaflets available for each section. The MHA Administrator will be able to provide these leaflets in other formats and languages.
- 16.4 It is the responsibility of the Ward Manager to ensure that any detained patient has been informed of their rights in accordance with this policy. Where possible, information should be given to a patient by a qualified nurse. This ensures that information regarding treatment issues can be answered.
- 16.5 When giving the patient information orally it should be explained as clearly as possible.
- 16.6 The nurse must complete the Patient Rights Form and upload the form onto RiO MHA Document Folder. An entry should be made in the Care Plan to records the section the patient is under and how often they should be reminded of their rights. All further attempts to read or remind the patient of their rights should be recorded on the Rights Form. The form should be scanned and uploaded to RiO every time it is updated.
- 16.7 The Mental Health Law Administrator will audit the recording of the forms and information will be provided to the Mental Health Legislation Manager.
- 16.8 In the event that the patient is unable to receive or understand their rights, the professional responsible for giving the patient his/her rights, must incorporate this requirement into the care plan.
- 16.9 The patient should be read his/her rights on a daily basis until the member of staff feels that the patient understands their rights. This must be recorded on the form provided and placed with the section papers. If the patient lacks capacity to understand their rights (and following a capacity assessment) the patient should automatically be referred to the IMHA service, as safeguarding of their rights. The MHA Administrator must be informed of that automatic referral. Their Nearest Relative or principle carer may be involved if appropriate. Although the patient is detained under the MHA staff can refer to the Mental Capacity Act Code of Practice which advocates good practice in relation to providing information to patients who lack capacity or have fluctuating capacity.
- 16.10 When the patient has been given his/her rights, a record must be made in the ward diary to indicate when he/she is due to have their rights reiterated (please refer to paragraph 16 below).
- 16.11 Where a patient has the need for an interpreter then a care plan should be produced and appropriate interpretation support sought throughout the period of care. Independent interpreters should always be sought but in the case of emergencies you should consult with other member of the care team or the Senior Nurse regarding the appropriateness of using relatives/carers. If this issue occurs it should be fully documented in the patient's records.
- 16.12 Unless the patient objects, this information must also be given in writing, to the nearest relative within a reasonable timescale. Particular attention should be paid to ensuring that Nearest Relatives understand their rights in relation to discharge. The Mental Health Administrator will be responsible for ensuring

a letter is sent to the Nearest Relative upon receipt of the completed section 132 Rights Form from the nursing staff.

16.13 If it appears that the section has been discharged prior to any attempts being made at giving the patient's their rights under Section 132, this will be recorded and investigated as an incident. Non-compliance with Section 132 denies both patients and their Nearest Relatives their right to apply for the discharge of the patient from detention.

16.14 Where the patient is on CTO, the Inpatient nursing staff must ensure their rights are explained to them orally prior to discharge onto CTO. The MHA Administrator will write to the patient and their nearest relative to provide them with a written copy of their rights.

17. Frequency of providing Information

17.1 In the case of emergency sections (lasting 72 hours or less) the patient should be provided with the information orally and in writing immediately. This will then be repeated as necessary.

17.2 Section 2 Patients should be informed immediately and then repeated a minimum of once a week. This is of particular importance due to the patient only being able to appeal to the Tribunal in the first 14 days of detention.

17.3 Patients on treatment sections e.g. 3, 37, 47, 48, 37/41 (including patients who have had their CTO revoked), should be informed immediately and then repeated a minimum of once a fortnight, as part of their care plan review.

17.4 Patients on CTO should be provided with the information orally and in writing at the commencement of the CTO and this should be revisited every 3 months.

17.5 Rights must be re-read;

During a CPA or s.117 meeting

When consent to treatment is being discussed

When there is any change to the medication they are receiving

Section Renewal

When the patient has been recalled from CTO

17.5 These minimum requirements do not prevent staff from using their judgment to decide how frequently rights need to be revisited for individual patients.

18. Communication with patients

18.1 Effective communication is essential in ensuring appropriate care and respect for patients' rights. It is important that the language used is clear and unambiguous and that people giving information check that the information that has been communicated has been understood.

18.2 Everything possible should be done to overcome barriers to effective communication, which may be caused by any of a number of reasons – for example, if the patient's first language is not English. Patients may have difficulty in understanding technical terms and jargon or in maintaining attention for extended periods. They may have a hearing or visual impairment

or have difficulty in reading or writing. A patient's cultural background may also be very different from that of the person speaking to them.

- 18.3 Those with responsibility for the care of patients need to identify how communication difficulties affect each patient individually, so that they can assess the needs of each patient and address them in the most appropriate way. Hospitals and other organisations should make people with specialist expertise (e.g. in sign language or Makaton) available as required.
- 18.4 Where an interpreter is needed, every effort should be made to identify who is appropriate to the patient, given the patient's gender, religion, language, dialect, cultural background and age. The patient's relatives and friends should only exceptionally be used as intermediaries or interpreters. Interpreters (both professional and nonprofessional) must respect the confidentiality of any personal information they learn about the patient through their involvement. DA Languages, the Interpreter Service can be accessible via <http://www.dalanguages.co.uk/> , or by phoning - 0800 066 2596
- 18.5 Independent Mental Health Advocates engaged by patients can be invaluable in helping patients to understand the questions and information being presented to them and in helping them to communicate their views to staff. Patients who lack capacity to consent to admission, care & treatment must be automatically referred to the IMHA service. ([TotalVoice](https://www.voiceability.org/services/cambridgeshire-and-peterborough/total-voice-cambridgeshire-and-peterborough/) Tel: 0300 222 5704 <https://www.voiceability.org/services/cambridgeshire-and-peterborough/total-voice-cambridgeshire-and-peterborough/>)
- 18.6 Wherever possible, patients should be engaged in the process of reaching decisions which affect their care and treatment under the Act. Consultation with patients involves assisting them in understanding the issue, their role and the roles of others who are involved in taking the decision. Ideally decisions should be agreed with the patient. Where a decision is made that is contrary to the patient's wishes, that decision and the authority for it should be explained to the patient using a form of communication that the patient understands.

19. Victims Rights (See Chapter 22 of the MHA CoP 2015)

- 19.1 In case of patients detained under Part 3 of the Act, information regarding the patients discharge or transfer may be shared with people with a valid interest. This may include victims and the families of victims as described in the Domestic Violence, Crime and Victims Act 2004 (as amended by the MHA 2007). In other circumstances, professionals should encourage (but cannot require) mentally disordered offender patients to agree to share information that will enable victims or victims' families to be informed about their progress. Among other benefits disclosure of such information can sometimes serve to reduce the danger of harmful confrontations after a discharge of which victims were unaware. Professionals should be ready to discuss with patients the benefits of enabling some information to be given by professionals to victims, within the spirit of the Code of Practice for Victims of Crime issued under the DVCV Act.

20. Voting Rights (See appendix 6)

- 20.1 Changes in the law introduced in the Representation of People Act 2000 now allow the use of a mental health hospital address for the purposes of

registering to vote. This has enabled both voluntary (informal) and some detained patients to vote. The Trust should give information about their voting rights to patients and assist them in the exercise of their right to vote when possible e.g. through Section 17 leave or postal vote.

21. Post

- 21.1 Using the Mental Health Act 1983 post sent to a patient detained in a local hospital may not be inspected, opened or withheld under any circumstances. Specific provisions in relation to this are made for special hospitals only. However, if either a detained or informal patient is sent articles of potential danger, such as weapons, explosives or matches, through the mail, section 3(1) of the Criminal Law Act 1967 and the common law provide authority for hospital staff to take reasonable measures to prevent the patient receiving or keeping the article in his / her possession.
- 21.2 If staff members have any suspicions or concerns that a patient's correspondence may contain an article of potential danger, they should initially speak to the patient and try to gain their consent in disclosing the package and/or contents to staff.
- 21.3 If the patient refuses to disclose the article staff should refer to the Search Policy and contact the Mental Health Legislation Manager for further advice.
- 21.4 Section 134(1)(a) relates to local hospitals and authorises the withholding of post sent by a detained patient if the person it is addressed to has requested that communications by the patient should be withheld.
- 21.5 This power only relates to detained patients and no restrictions can be applied to informal patients post.
- 21.6 The post of a detained patient may only be withheld if the person to whom it is addressed has requested this in writing to the Hospital Managers, the Responsible Clinician in charge of the patient's treatment or the Secretary of State.
- 21.7 The written request should be passed to the MHA Administration Office - who will record this information and review as appropriate.
- 21.8 There is no power to open and inspect any outgoing post from a patient. Staff must check the address on the package only.
- 21.9 Full details on the procedure for inspecting and retaining post are given in the Reference Guide to the Mental Health Act 1983 (2015). The Code states that if the post has been withheld this must be recorded in writing by an officer authorised by the hospital managers, and the patient must be informed in accordance with the regulations.

22. The Rights of Informal Patients

- 22.1 An informal patient is defined as; (a) a patient who is not currently detained under the Mental Health Act 1983. This includes patients who have been detained in the past, even during their current admission, but have been discharged from detention and are as much informal as anyone else; and

(b) not subject to the Deprivation of Liberty Safeguards (DoLS) of the Mental Capacity Act 2005.

- 22.2 A capable informal patient is someone who is admitted to hospital voluntarily and continues to be treated on the basis of their valid consent i.e. who has the capacity to consent to admission and treatment.
Such patients in psychiatric hospitals are in the same position legally as an informal patient in a general hospital. This means that they can leave the ward at any time (subject to reasonable requirements). Informal patients can also discharge themselves, even if it is against medical advice.

Any care and treatment that they receive must be on the basis of their free, voluntary and valid consent. Like any patient they may withdraw their consent at any time. Although the Trust has a duty of care towards its patients, which means that it must strive to ensure they receive any necessary care and treatment, this cannot take precedence over the patients self-autonomy and right to refuse care and treatment.

- 22.3 All wards should make sure that as part of the admission process informal inpatients are made aware of their rights. **See Appendix 5 for a leaflet that should be given to informal patients**, possibly as part of a ward welcome or admission pack.
- 22.4 Although informal patients have the right to leave the ward at any time, the Trust has a duty of care towards them and responsibility for their safety and well-being. Diagnostically such patients may be indistinguishable from detained patients.
- 22.5 Given this it is reasonable to ask informal patients to inform a member of staff if they wish to go out for a short period and to give at least an approximate time of return. Any nurse presented with a patient who wishes to go out must make a decision, based on the latest risk assessment and the patient's current presentation, about whether this is safe. If not and the patient cannot be persuaded to stay on the ward, a doctor must be contacted urgently to carry out an assessment under Section 5(2). It is not permissible to deny informal patients the right to go out without conducting an assessment to decide if detention under the Mental Health Act is appropriate. (See CPFT Section 5(2) 5(4) Doctor and Nurse's Holding Powers Policy)

23. How to make a complaint

- 23.1 If a patient wishes to make a complaint then staff must assist them to do so via CPFT PALs Office.

24. Monitoring of this policy

- 24.1 Compliance with the process of informing patients of their rights is monitored by the MHA Administrators on a weekly basis. Reminders of due rights are sent to the ward managers and their deputies. In line with the Trust's escalation process, any breaches are reported back to the Ward Management Team and the Directorate MDT.
- 24.2 The Trust also will monitor the use of this policy through the Mental Health Law Policy & Practice Group and the Quality, Safety and Governance

Committee. Monthly Compliance Monitoring reports will also be submitted to the Directorates via their PREs.

- 24.3 As part of the review, monitoring and audit the Mental Health Law Manager will consider how any learning requirements will be addressed with staff.

25. Training

- 25.1 All nursing staff working with the MHA are required to complete an on line mandatory training, as well as a classroom based mandatory training. Patients Rights and the role of the IMHA are covered as part of the training.
- 25.2 MHA Administrators and MHA Law Manager may perform awareness talks and ward training when necessary.

26. Right Leaflets

- 26.1 Each ward/Service has a folder with MHA Rights Leaflet, which can be replenished via the MHA Administrator.
- 26.2 Easy Read Rights leaflets can be obtained via the MHA Administration Office.
- 26.3 Rights Leaflets in different languages can be accessed via: http://www.mentalhealthlaw.co.uk/Foreign-language_information_leaflets
- 26.4 Easy Read information about the CoP and the MHA can be accessed via the DoH web page <https://www.nhs.uk/NHSEngland/AboutNHSservices/mental-health-services-explained/Pages/easy-read-mental-health-act.aspx>

27 References

- Mental Health Act 1983
- Code of Practice to Mental Health Act 2015
- Reference Guide to the Mental Health Act 2015

Appendix 1

SECTION – 132/132a OF THE MENTAL HEALTH ACT 1983 STANDARD OPERATING PROCEDURE FOR PROVIDING PATIENTS WITH THEIR RIGHTS (V3)

It is the responsibility of the ward nursing staff (or care coordinator if the patient is in the community) to ensure the patient understands their rights by providing written and verbal information, as legally required by the MHA, chapter 4 of the Code of Practice (2015) and in the Trust's S132/132a Reading of Rights policy.

On admission to the ward, patients must be informed of their rights orally and in writing as soon as is practically possible within 24 hours of detention. On being discharged from hospital, both at the start of the CTO and also following a S17e recall, or at the start of conditional discharge, patients must be informed of their rights by ward nursing staff before leaving the ward. Full rights must then be provided again by the care coordinator within 2 weeks of the patient's discharge from hospital. In addition to the oral explanation of the rights, the ward nurse/care coordinator must ensure that the patient receives a copy of the relevant DoH section rights form, as well as all information leaflets that are mentioned on the **"Reading of Rights Form"** tick list.

Nursing staff/Care Coordinator must record the reading of rights attempts and outcomes on the front page of Trust's **"Reading of Rights Form"** (ensuring that all boxes are ticked and that the form is signed and dated)
The form must be scanned and uploaded onto RiO within 24 hours from being created/ or updated

The patient's care plan should reflect:

- The patient's section
- The outcome of the initial reading of rights
- The frequency planned for reminding patients of their rights as part of their care plan review (S2 – weekly, S3 and court orders – fortnightly. CTO/S41 - every 3 months).
- If the patient chooses not to be reminded of their rights, this must also be recorded.

Was it assessed that the patient has understood their rights?

YES

Proceed with reminding patients of their rights, as per guidance note on the **"Reading of Rights Form"**

Record the outcome of reminding patients of their rights at the back of the **"Reading of Rights Form"**

Scan and upload the 'Reading of Rights' form onto RiO within 24 hours of creation or when it is updated (file under the MHA Local Forms folder, naming the document '**S#_Initial_Rights** or **S#_Rights_Reminder**')
(Compliance with the Reading and Reminding of Rights standards are reported monthly as part of the Directorate's PRE meetings and to the relevant Committee.

NO

In your opinion, could the patient **lack capacity** to make decisions about their rights?

NO

Unless the patient refuses, continue to attempt reading the rights and record the outcome of each attempt (i.e. understood/not understood) and the reason why the process was not completed on the **"Reading of Rights Form"** (i.e. – patient unwell, AWOL, etc.). If the patient has refused further reminders, please document this on the **"Reading of Rights Form"**
If you cannot complete the reading of rights successfully after 7 days, **a discussion with the RC** must take place in the MDT meeting and the outcome/action plan recorded in the patient care plan and RiO Clinical Notes.

YES

(A capacity assessment MUST take place and the details/outcome MUST be recorded on a RiO Capacity Assessment Form)
If the patient lacks capacity they must be automatically referred to an IMHA

A discussion with the RC must take place in the MDT meeting. Is the patient's capacity likely to change? Are there any other ways in which the rights can be conveyed to the patient?
The outcome of the discussion/action plan must be recorded in the patient care plan and clinical notes.

REMEMBER: Complete reading of rights (verbally and in writing) must take place:-

- When there is a change to the section the patient is detained under (e.g. re-grading from s.2 to a s.3, end of recall period, etc.)
- At the start of the CTO by ward nursing staff and then within 2 weeks of discharge from hospital by care coordinator
- When consent to treatment is due and at extension/renewal of section
- When a patient is considering appealing, or becomes eligible again to appeal to the First Tier Tribunal or MHA Managers.
- When a detained patient is transferred from another ward or hospital (If the patient rights were successfully read at a point of admission to an Assessment Ward within the Trust, and then transferred on the same day to a treatment ward, there is no need to re-read the rights. The patient should be reminded of their rights in line with the "reminding" schedule)

A new 'Reading of Rights Form' should be used for any of the above and whenever you run out of the allocated space to record the information required. Non-current forms should be crossed through.

Once on RiO, the completed non-current form should be sent to the MHA Administrator.

Appendix 2

RECORD OF INFORMATION PROVIDED FOR DETAINED INPATIENTS READING OF RIGHTS

PATIENT'S FULL NAME		DOB	
HOSPITAL NO	WARD	SECTION	
<p>The complete reading of rights must be shared with patients both verbally and in writing (rights leaflets) at the start of the section (and as specified in the guidance on the back of the form). Until you conclude that the patient understands their rights, continue to attempt reading the rights daily. Once you have ascertained that the patient understands their rights, reminding of rights should be carried out as part of the care plan reviews (as per schedule on the back of this form). Use the space on the back of the form to record reminding patients of their rights.</p>			
Date	Time	Explanation given by: (Must include nurse's full name, title, band and signature)	Patient understood rights Yes/No
			If you assess that the patient does not understand their rights, state the reason (e.g. unwell/lacks capacity). If the patient lacks capacity, record the outcome of the capacity assessment on RiO and the care-plan and refer the patient to an IMHA. If the patient has capacity, but refuses to engage in the process, record your attempt details below. Attempts to offer patients information about their rights must be repeated until understood

To record reminding patients of their rights and read the guidance notes - continue overleaf...

THE INFORMATION PROVIDED <u>MUST</u> INCLUDE THE FOLLOWING:	INFORMATION PROVIDED: (TICK TO CONFIRM INFO WAS PROVIDED ✓)
Explanation re which Section of the Act applies to the patient, the reasons and effects of the Section.	Tick
The appropriate section Rights leaflet was provided to and accepted by the patient	Tick
Explanation on who their Nearest Relative (NR) is and what their rights are.	Tick
Does the patient <u>object</u> to sharing information regarding their admission/discharge with their NR?	Y/N
Has the RC/Nurse decided that in the best interest of the patient the NR should receive information re patient's admission/discharge, even when the patient objects? (This should be discussed with the patient, the reason for sharing information <u>MUST</u> be recorded in the patient's RiO Note and the MHA Admin <u>MUST</u> be informed, so a letter can be sent to the NR - See sharing information without consent guidance)	Y/N
Verbal explanation on the right to be referred to an Independent Mental Health Advocate (IMHA) & Leaflet provided	Tick
Has the patient requested to be referred to the IMHA Service? (Discussion & decision should also be recorded in the patient's care plan).	Y/N
Does the patient lack capacity to understand their rights? (MCA assessment must be done and patient must be referred to IMHA)	Y/N
The patient's right to appeal to the Mental Health Act Managers and the process was explained.	Tick
The patient's right to appeal to the First Tier Tribunal and the process was explained.	Tick
The patient's right to free legal representation in MHA Managers and Tribunal hearings was explained.	Tick
The patient's right to nominate a relative, friend, or other informal supporter to attend a hearing.	Tick
The Consent to treatment process was explained (patient's rights, why medication may be needed, pros and cons, for how long...etc.)	Tick
Discussed care and treatment plan and patient's right to be involved in it. Copy provided	Tick
The role of the CQC in relation to the MH Act. CQC info leaflet provided	Tick
Discussed with the patient how to make a complaint to the CQC.	Tick
The patient understands how they can request to access their health records	Tick

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PTO

REMINDING PATIENTS OF THEIR RIGHTS(MENTAL HEALTH ACT 1983)

PATIENTS MUST BE REMINDED OF THEIR RIGHTS AS PART OF THEIR CARE PLAN (C/P) REVIEW.
REMINDING OF THE RIGHTS MUST BE NOTED IN THE C/P AND THE OUTCOME FULLY RECORDED
BELOW

Patients under Sec 2 – every week **Patients under Sec 3 and court orders – every 2 weeks**

Patient's Full Name		Date of Birth		
The patient was reminded of their MHA rights at the following:				
Date	Time	Explanation provided by: (Must Include full name and signature)	Patient understood and accepted reminder of rights information Yes/No	If you assess that the patient does not understand their rights, state the reason (e.g. unwell/lacks capacity). <u>If the patient lacks capacity</u> , record the outcome of the capacity assessment on RiO and the care-plan and <u>refer the patient to an IMHA</u> . If the patient has capacity, but refuses to engage in the process, record your attempt details below. <u>Attempts to offer patients information about their rights must be repeated until understood</u>

IMPORTANT GUIDANCE NOTES:

THE INFORMATION OUTLINED IN PAGE 1 OF THE FORM MUST BE GIVEN TO THE PATIENT AT THE TIME OF DETENTION AND MUST BE FULLY RECORDED ON PAGE ONE OF THIS FORM. A NEW FORM MUST ALSO BE STARTED AS OUTLINED BELOW:

- When consent to treatment is due and at renewal of detention.
- When a patient is regraded to a new section.
- When a patient is considering appealing, or becomes eligible again to appeal to the Tribunal or MHA Managers hearings.
- If the patient is transferred from another ward or hospital.
- When you run out of space for recording the reminding of the rights, start a new form and repeat the complete reading of rights process.
- The reasons for the patient not accepting or understanding their 'Rights' **must** be clearly documented in their RiO Notes.
- If a patient lacks capacity – a robust capacity assessment must be completed and recorded in their RiO Notes.
- Patients who lack capacity must be automatically referred to the Independent Mental Health Advocate service (IMHA)
- A patient detained under section 2 may appeal for a Tribunal hearing within 14 days of commencement of detention.
- A patient detained under Section 3 may appeal for a Tribunal hearing once in each period of detention.
- A patient detained under section 37 cannot appeal to the Tribunal in the first 6 months of detention, but may appeal once in each period of detention thereafter.
- If the patient doesn't object to sharing the admission/renewal of section information with their Nearest Relative, the MHA Administrator will be sending an information letter and a copy of the 'Rights' and IMHA leaflets to the patient's NR.

A COPY OF THIS FORM MUST BE SCANNED AND UPLOADED TO RiO EVERY TIME IT IS UPDATED.

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Appendix 3

RECORD OF INFORMATION PROVIDED TO CTO PATIENTS (COMMUNITY TREATMENT ORDERS READING OF RIGHTS)

PATIENT'S FULL NAME		DOB	
HOSPITAL NO	TEAM	SECTION	
<p>The complete reading of rights must be shared with patients both verbally and in writing (rights leaflets) at the start of the CTO (by ward staff) and when the patient is in the community (by the Care Coordinator) (and as specified in the guidance on the back of the form).</p> <p>Until you conclude that the patient understands their rights, continue to attempt reading the rights weekly. Once you have ascertained that the patient understands their rights, reminding of rights should be carried out as part of the care plan reviews (as per schedule on the back of this form). Use the space on the back of the form to record reminding patients of their rights.</p>			
Date	Time	Explanation given by: (Must Include Care Coordinator's full name, title, band and signature)	Patient understood rights Yes/No If you assess that the patient does not understand their rights, state the reason (e.g. unwell/lacks capacity). If the patient lacks capacity , record the outcome of the capacity assessment on RiO and the care-plan and refer the patient to an IMHA . If the patient has capacity, but refuses to engage in the process, record your attempt details below. Attempts to offer patients information about their rights must be repeated until understood

To record reminding patients of their rights and read the guidance notes - continue overleaf...

THE INFORMATION PROVIDED MUST INCLUDE THE FOLLOWING:	INFORMATION PROVIDED: (TICK TO CONFIRM INFO WAS PROVIDED ✓)
Explanation re CTO, the reasons and effects of the Section.	Tick
The CTO Rights leaflet was provided to and accepted by the patient	Tick
Explanation on who their Nearest Relative (NR) is and what their rights are.	Tick
Does the patient <u>object</u> to sharing information regarding their admission/discharge with their NR?	Y/N
Has the RC/CC decided that in the best interest of the patient the NR should receive information re patient's CTO/Discharge even when the patient objects? (This should be discussed with the patient, the reason for sharing information MUST be recorded in the patient's RiO Note and the MHA Admin MUST be informed, so a letter can be sent to the NR. Also see 'Sharing Information without Consent' guidance)	Y/N
Verbal explanation on the right to be referred to an Independent Mental Health Advocate (IMHA) & Leaflet provided	Tick
Has the patient requested to be referred to the IMHA Service? (Discussion & decision should also be recorded in the patient's care plan).	Y/N
Does the patient lack capacity to understand their rights? (MCA assessment must be done and patient must be referred to IMHA)	Y/N
The patient's right to appeal to the Mental Health Act Managers and the process was explained.	Tick
The patient's right to appeal to the First Tier Tribunal and the process was explained.	Tick
The patient's right to free legal representation in MHA Managers and Tribunal hearings was explained.	Tick
The patient's right to nominate a relative, friend, or other informal supporter to attend a hearing.	Tick
The Consent to treatment process was explained (patient's rights, why medication may be needed, pros and cons, for how long...etc.)	Tick
Discussed care and treatment plan and patient's right to be involved in it. Copy provided	Tick
The role of the CQC in relation to the MH Act. CQC info leaflet provided	Tick
Discussed with the patient how to make a complaint to the CQC.	Tick
The patient understands how they can request to access their health records	Tick

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PTO

REMINDING PATIENTS OF THEIR RIGHTS (MENTAL HEALTH ACT 1983)

PATIENTS MUST BE REMINDED OF THEIR RIGHTS AS PART OF THEIR CARE PLAN (C/P) REVIEW. REMINDING OF THE RIGHTS MUST BE NOTED IN THE C/P AND THE OUTCOME FULLY RECORDED BELOW

CTO rights information should ideally be provided before the patient is discharged from hospital. If this cannot be done for any reason (e.g. patient on leave) then the care coordinator must ensure the rights are read within 2 weeks of the CTO commencing.

Reminders of CTO rights must take place every three months. This can be by telephone if acceptable to the patient.

Patient's Full Name		Date of Birth		
The patient was reminded of their MHA rights at the following:				
Date	Time	Explanation provided by: (Must Include full name and signature)	Patient understood and accepted reminder of rights information Yes/No	If you assess that the patient does not understand their rights, state the reason (e.g. unwell/lacks capacity). <u>If the patient lacks capacity</u> , record the outcome of the capacity assessment on RiO and the care-plan and <u>refer the patient to an IMHA</u> . If the patient has capacity, but refuses to engage in the process, record your attempt details below. <u>Attempts to offer patients information about their rights must be repeated until understood</u>

THE INFORMATION OUTLINED IN PAGE 1 OF THE FORM MUST BE PROVIDED TO THE PATIENT AT THE TIME OF DETENTION, AND AS OUTLINED BELOW, AND MUST BE FULLY RECORDED ON PAGE ONE OF A FRESH FORM.

- When consent to treatment is due and at extension of CTO.
- When a patient is considering appealing, or becomes eligible again to appeal to the Tribunal or MHA Managers.
- Rights must be read at **discharge** point by ward staff. If CTO follows leave, the Care Coordinator must read the rights **within 2 weeks of the start of the CTO** period.
- When you run out of space for recording the reminding of the rights, start a new form and repeat the complete reading of rights process.
- The reasons for the patient not accepting or understanding their 'Rights' **must** be clearly documented in the **RiO Notes**.
- If a patient lacks capacity – a robust capacity assessment must be completed and recorded in the **RiO Notes**.
- Patients who lack capacity must be automatically referred to the Independent Mental Health Advocate service (IMHA)
- If the patient doesn't object to sharing the commencement/extension of section information with their Nearest Relative, the MHA Administrator will be sending an information letter and a copy of the 'Rights' and IMHA leaflets to the patient's NR.

A COPY OF THIS FORM MUST BE SCANNED AND UPLOADED ONTO RiO EVERY TIME IT IS UPDATED.

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INFORMATION PROVIDED TO PATIENTS ON A CONDITIONAL DISCHARGE (SECTION 41)
READING OF RIGHTS
(Section 132 of the Mental Health Act 1983)

PATIENT'S FULL NAME				DOB	
HOSPITAL NO				TEAM	
<p>The <u>complete</u> reading of rights must be shared with patients both verbally and in writing (rights leaflets) at the start of the conditional discharge and as specified in the guidance on the back of the form.</p> <p>Until you conclude that the patient understands their rights, continue to attempt reading the rights weekly.</p> <p>Once you have ascertained that the patient understands their rights, the 'reminding of rights' process should be carried out as part of the care plan reviews (as per schedule on the back of this form).</p> <p>Use the space on the back of the form to record <u>reminding</u> patients of their rights.</p>					
Date	Time	Explanation provided by: (Must include care coordinator's full name and signature)	Patient understood rights Yes/No	<p>If you assess that the patient does not understand their rights, state the reason (e.g. unwell/lacks capacity). <u>If the patient lacks capacity</u>, record the outcome of the capacity assessment on RiO and the care-plan and <u>refer the patient to an IMHA</u>.</p> <p>If the patient has capacity, but refuses to engage in the process, record your attempt details below.</p> <p>Attempts to offer patients information about their rights must be repeated until understood</p>	

To record reminding patients of their rights and read the guidance notes - continue overleaf...

THE INFORMATION PROVIDED <u>MUST</u> INCLUDE THE FOLLOWING:	INFORMATION PROVIDED: (TICK TO CONFIRM INFO WAS PROVIDED ✓)
Explanation regarding the reasons and effects of the conditional discharge.	Tick
Verbal explanation on the right to be referred to an Independent Mental Health Advocate (IMHA) & Leaflet provided	Tick
Has the patient requested to be referred to the IMHA Service? (Discussion & decision should be recorded in the patient's care plan).	Tick
Does the patient lack capacity? (MCA assessment must be done and patient has been referred to IMHA)	Tick
The patient's right to appeal to the First Tier Tribunal and the process was explained.	Tick
The patient's right to free legal representation in Tribunal hearings was explained.	Tick
The patient's right to nominate a relative, friend, or other informal supporter to attend a hearing was explained.	Tick
The Consent to treatment process was explained (patient's rights, why medication may be needed, pros and cons, for how long...etc.)	Tick
Discussed care and treatment plan and patient's right to be involved in it. Copy provided	Tick
The role of the CQC in relation to the Mental Health Act. CQC info leaflet provided	Tick
Discussed with the patient how to make a complaint to the CQC.	Tick
The patient understands how they can request to access their health records	Tick

REMINDING PATIENTS OF THEIR RIGHTS UNDER THE MENTAL HEALTH ACT 1983

PATIENTS MUST BE REMINDED OF THEIR RIGHTS AS PART OF THEIR CARE PLAN REVIEW.
REMINDING OF THE RIGHTS MUST BE NOTED IN THE C/P AND THE OUTCOME FULLY RECORDED BELOW

Conditional Discharge rights information should ideally be provided before the patient is discharged from hospital; if this cannot be done for any reason (e.g. patient on leave) then the care coordinator must ensure the rights are read within two weeks of the Conditional Discharge commencing.

Reminders of Conditional Discharge Rights must take place every three months. This can be by telephone if acceptable to the patient.

Patient's Full Name		Date of Birth	
The patient was reminded of their MHA rights at the following dates:			

IMPORTANT GUIDANCE NOTES:

THE INFORMATION OUTLINED IN PAGE 1 OF THE FORM MUST BE PROVIDED TO THE PATIENT AT THE TIME OF DETENTION AND AS OUTLINED BELOW, AND MUST BE FULLY RECORDED ON PAGE ONE OF A FRESH FORM.

- When a patient is considering appealing, or becomes eligible again to appeal to the Tribunal or MHA Managers.
- Rights must be read at the point of **discharge from hospital** by ward staff.
- When you run out of space for recording the reminding of the rights, start a new form and repeat the complete reading of rights process.
- The reasons for the patient not accepting or understanding their 'Rights' **must** be clearly documented in the **Clinical Notes**.
- If a patient lacks capacity – a robust capacity assessment must be completed and recorded in the **Clinical Notes**
- Patients who lack capacity must be automatically referred to the Independent Mental Health Advocate service (IMHA)

A COPY OF THIS FORM MUST BE SCANNED AND UPLOADED ONTO RiO EVERY TIME IT IS UPDATED.

CPFT/mentalhealth/IP13A (V1)

Your Rights As An Informal Patient

What does being a informal patient mean?

Being an informal patient means that you have come into hospital or remained in hospital voluntarily.

You have agreed with healthcare professionals that you need assessment or treatment in hospital for your mental health.

Being an informal patient means that you are not detained under the Mental Health Act.

What are my rights as an informal patient?

While you are in hospital we have a duty of care to look after you.

You cannot legally be held in hospital against your will.

Our wards are secured by controlled access in order to protect the safety and privacy of patients and staff, however, they are not a secure environment.

You are free to leave whenever you wish but we ask that you inform staff of where you are going and your expected time of return so we know you are safe.

If staff do not feel you are safe to leave the hospital, they may ask that you speak with a doctor to discuss your plans.

If the doctor does not feel you should leave you may be asked to sign a discharge against medical advice form.

In exceptional circumstances the doctor may insist that you remain in hospital for your own safety or the safety of others.

In this situation they may conduct a mental state assessment under the Mental Health Act.

We always do our best to come to a mutually agreeable outcome.

Care and treatment in hospital

When you come into hospital you will be shown around and given a Welcome pack.

You will be allocated a named nurse and will be seen by your ward doctor.

You will have the opportunity to discuss treatment and as an informal patient you do have the right to refuse treatment.

You will be informed of side effects of medication and given a leaflet so you can make an informed decision.

You will also be offered the chance to attend therapeutic groups and have 1:1 discussions with your named nurse.
Your named nurse will work on an individual plan of care for you which you will be given a copy of.

You have the right to receive visitors, make and receive phone calls and send and receive mail.

Confidentiality

We keep information about you on our confidential electronic care records. We may ask that we can share information with other health care professionals in order to give you the best possible care. For example housing providers, education services.

We will ask you whether you wish us to share information with family members or close friends.

We will only share information with your consent. If you tell us you do not want us to share information with them we will respect this.

What to expect from the hospital environment

We aim to make the hospital a safe and therapeutic environment.

We want your stay to be as pleasant as possible and hope you will take full advantage of the help on offer.

We thrive on mutual respect and we do have a Zero tolerance policy to violence and aggression.

Leaving hospital

Your discharge from hospital will be planned with your care team and any other significant people such as family or carers if you wish them to be involved.

Should you need any other support on discharge, for example from community teams, this will be discussed with you before you leave.

If you do not understand anything in this leaflet or require further advice please ask the nurse in charge.

Appendix 7

Ensure that the details and outcome of the discussions with the patient are recorded on their RiO clinical notes/care plan.

Provide patients with verbal and written information and support them in the process of understanding their rights.

Patients Detained Under the MHA - Voting Rights Procedure

Is the patient entitled to vote? (See attached guidance)

Does the patient has capacity to vote in the 2015 election

Patient has capacity to vote

Patient can vote if they had an established residence prior to admission to which they are likely to return on discharge.

Patients with a condition that may impair their capacity to vote:

These individuals should be asked if they want to register to vote/want to vote and additional support offered to support them doing so. If they require assistance, they must be allowed to express their own intention of how they cast their vote. It is important that a staff member, advocate, relative or carer does not influence their voting choice. A lack of mental capacity is not a legal incapacity to vote.

Patient does not have capacity to vote

No-one can vote on behalf of the patient.

If a patient has not registered at the time of their admission, ward manager should contact Electoral Registration Office and obtain "The Patient's Declaration" form and ensure that this form is completed, witnessed and returned by April 20th 2015

By person

Section 17 leave with appropriate escorts as required

At a polling station between 7am and 10pm on Thursday 7 May.

By Proxy

Nominating someone to vote for the patient on the day of the election, or by post.

An individual must have capacity to decide who to choose to be their proxy.

The last day to apply to vote by post and for postal proxy applications is 5pm on Tuesday 21 April.

A postal vote application

Form needs to be completed and sent back to the local electoral registration office. Postal vote packs are usually sent out about a week before Election day. Votes need to be posted back to arrive by **10pm on the day of the election; otherwise, it can be handed to the local electoral registration office or local polling station by 10pm on Election Day.**