

**Mental Health Act  
 SECTION 132  
 Procedural Document**

**Statement/Key Objectives:**

This document covers the procedural requirements of Section 132 of the Mental Health Act 1983 to be followed by staff. It is not intended to be an alternative to following the specific wording of the MHA but is intended as a user-friendly guide. Where there is any conflict between this document and the legislation, the legislation will prevail.

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## 1.0 Quick Look Summary

This procedure will remain subject to version control, assurance and monitoring details as stated in the over-arching policy.

The Mental Health Act 1983 remains primary legislation, the Code of Practice (revised in 2015) provides for the good practice by which the Act is implemented.

The Guiding Principles, set out at the front of the Code, provide for it's statutory status, the following therefore provides for both primary legislation and good practice, and the local procedures that are written in accordance with them.

The Mental Health Act 1983 states the following:

### ***Duty of managers of hospital to give information to detained patients***

132.—

*(1) The managers of a hospital or [registered establishment] in which a patient is detained under this Act shall take such steps as are practicable to ensure that the patient understands—*

*(a) under which of the provisions of this Act he is for the time being detained and the effect of that provision; and*

*(b) what rights of applying to a [tribunal] are available to him in respect of his detention under that provision;*

*and those steps shall be taken as soon as practicable after the commencement of the patient's detention under the provision in question.*

## 1.1 Version Control

Version number	Date	Comments (description change and amendments)
Version 1	26 October 2016	Approved at the Mental Health Act Assurance Committee
Version 2	December 2016	Publication version
Version 2.1	July 2018	Following review
Version 2.1.1	February 2021	Following implementation of single patient record (SystemOne)
Version 2.1.2	May 2023	Review date due and changes to SystemOne
Version 2.1.3	Sept 2023	Update following comments received

## 1.2 Key individuals involved in developing and consulting on the document:

- Dr Saquib Muhammad – Acting Medical Director/Chair MHAGDG
- Alison Wheelton – Senior Mental Health Act Administrator
- Members of the MHAGDG with responsibility for service distribution
- Policy Experts

## 1.3 Governance

Level 2 or 3 approving delivery Group - Mental Health Act GDG  
Level 1 Committee to Ratify Procedure -

## 1.4 Equality Statement

Leicestershire Partnership NHS Trust (LPT) aims to design and implement policy documents that meet the diverse needs of our service, population, and workforce, ensuring that none are placed at a disadvantage over others.

It takes into account the provisions of the Equality Act 2010 and promotes equal opportunities for all.

This document has been assessed to ensure that no one receives less favourable treatment on the protected characteristics of their age, disability, sex (gender), gender reassignment, sexual orientation, marriage and civil partnership, race, religion or belief, pregnancy and maternity.

## 1.5 Due Regard

LPT will ensure the Due Regard for equality is taken and as such will undertake an analysis of equality (assessment of impact) on existing and new policies/procedures in line with the Equality Act 2010. This process will help to ensure that:

- Strategies, policies and procedures and services are free from discrimination

- LPT complies with current equality legislation
- Due regard is given to equality in decision making and subsequent processes
- Opportunities for promoting equality are identified

Please refer to due regard assessment in the appendices to this document.

## 1.6 Definitions that apply to this procedure

<b>The Act</b>	The Mental Health Act 1983 (as amended, including by the Mental Health Act 2007, the Health and Social Care Act 2012 and the Care Act 2014).
<b>Detained patient</b>	Unless otherwise stated, a patient who is detained in hospital under the Act, or who is liable to be detained in hospital but who is (for any reason) currently out of hospital.
<b>Detention (and detained)</b>	Unless otherwise stated, being held compulsorily in hospital under the Act for a period of assessment or medical treatment. Sometimes referred to colloquially as 'sectioning'.

## 2 Purpose and introduction

This procedural document is one of a series of documents that have been agreed across Leicestershire Partnership Trust. The series of documents sit behind the Trust's Over-arching MHA Policy and are reflective of the statement of intent set out within that Policy which in turn is reflective of the requirements of the Code of Practice 2015.

The aim of the procedural documents is to provide clear guidance to staff when undertaking their duties on behalf of the Trust as detailed in the Trust's Delegation document for use by those who have responsibility for the care and treatment of person(s) subject to the relative provision of the Mental Health Act to which this document applies.

## 3. Policy requirements

This procedure will remain subject to version control, assurance and monitoring details as stated in the over-arching policy.

The Mental Health Act 1983 remains primary legislation, the Code of Practice (revised in 2015) provides for the good practice by which the Act is implemented.

The Guiding Principles, set out at the front of the Code, provide for its statutory status, the following therefore provides for both primary legislation and good practice, and the local procedures that are written in accordance with them.

## 4. Duties within the Organisation

The Trust Board has a legal responsibility for Trust policies and for ensuring that they are carried out effectively.

Trust Board Sub-committees have the responsibility for ratifying policies and protocols. Directors and Heads of Service are responsible for:

- ensuring that comprehensive arrangements are in place regarding adherence to this policy and how this policy is applied within their own department.
- ensuring that team managers and other management staff are given clear instruction about the policy arrangements so that they in turn can instruct staff under their direction.

These arrangements will include:

- Distributing information about the policy in a timely manner throughout the Directorate/Department or Service to a distribution list which will be agreed in advance with local managers.
- Ensuring all staff has access to the up to date policy, either through the intranet, or if policy manuals are maintained that the resources are in place to ensure these are updated as required.
- Maintaining a system for recording that the policy has been distributed and received by staff within the department/service and for having these records available for inspection upon request for audit purposes.

Senior Managers, Matrons and Team leaders are responsible for:

- Providing this information to all new (applicable) staff on induction. It is the responsibility of local managers and team leaders to have in place a local induction that includes this policy.
- Ensure that their staff know how and where to access the current version of this policy; via intranet.

Consent

- Clinical staff must ensure that consent has been sought and obtained before any care, intervention or treatment is delivered. Consent can be given orally and/or in writing. Someone could also give non-verbal consent as long as they understand the treatment or care about to take place. Consent must be voluntary and informed and the person consenting must have the capacity to make the decision.
- In the event the patient's capacity to consent is in doubt, clinical staff must ensure that a mental capacity assessment is completed and recorded. Someone with an impairment or a disturbance in the functioning of the mind or brain is thought to lack the mental capacity to give informed consent if they cannot do one of the following:
  - o Understand information about the decision
  - o Remember that information
  - o Use the information to make the decision
  - o Communicate the decision

## 5. Monitoring compliance and effectiveness

Monitoring compliance will be recorded through the monthly MHA Census which is reported through the Service Reports to the MHAGDG.

6. Section 132 and Section 132a – Legislative Duties

The Mental Health Act 1983 states the following:

***Duty of managers of hospital to give information to detained patients***

132.—

*(1) The managers of a hospital or [registered establishment] in which a patient is detained under this Act shall take such steps as are practicable to ensure that the patient understands—*

*(a) under which of the provisions of this Act he is for the time being detained and the effect of that provision; and*

*(b) what rights of applying to a [tribunal] are available to him in respect of his detention under that provision;*

*and those steps shall be taken as soon as practicable after the commencement of the patient's detention under the provision in question.*

*(2) The managers of a hospital or [registered establishment] in which a patient is detained as aforesaid shall also take such steps as are practicable to ensure that the patient understands the effect, so far as relevant in his case, of sections 23, 25, 56 to 64, 66(1)(g), 118 and 120 above and section 134 below; and those steps shall be taken as soon as practicable after the commencement of the patient's detention in the hospital or [establishment].*

*(3) The steps to be taken under subsections (1) and (2) above shall include giving the requisite information both orally and in writing.*

*(4) The managers of a hospital or [registered establishment] in which a patient is detained as aforesaid shall, except where the patient otherwise requests, take such steps as are practicable to furnish the person (if any) appearing to them to be his nearest relative with a copy of any information given to him in writing under subsections (1) and (2) above; and those steps shall be taken when the information is given to the patient or within a reasonable time thereafter.*

***Duty of managers of hospitals to give information to community patients***

[132A.—

*(1) The managers of the responsible hospital shall take such steps as are practicable to ensure that a community patient understands—*

*(a) the effect of the provisions of this Act applying to community patients; and*

*(b) what rights of applying to a [tribunal] are available to him in that capacity; and those steps shall be taken as soon as practicable after the patient becomes a community patient.*

*(2) The steps to be taken under subsection (1) above shall include giving the requisite information both orally and in writing.*

*(3) The managers of the responsible hospital shall, except where the community patient otherwise requests, take such steps as are practicable to furnish the person (if any) appearing to them to be his nearest relative with a copy of any information given to him in writing under subsection (1) above; and those steps shall be taken when the information is given to the patient or within a reasonable time thereafter.]*

**Information for patients, nearest relatives, carers and others**

4.1 This chapter gives guidance on the information that must be given to patients, and their nearest relatives. It also gives guidance on communication with patients, their families and carers, and other people.

4.2 Effective communication is essential in ensuring appropriate care and respect for patients' rights, and those responsible for caring for patients should identify any communication difficulties and seek to address them. The Act requires hospital managers to take steps to ensure that patients who are detained or are the subject of a community treatment order (CTO) understand important information about how the Act applies to them.

Communication with patients

4.3 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.

4.4 Everything possible should be done to overcome barriers to effective communication, which may be caused by any of a number of reasons. For example, a patient's first language may not be 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, have difficulty in reading or writing, or have a learning disability. A patient's cultural background may also be different from that of the person speaking to them. Children and young people will need to have information explained in a way they can understand and in a format that is appropriate to their age.

4.5 Those with responsibility for the care of patients need to identify how communication difficulties affect each patient 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 (eg in sign language or Makaton) available as required. Often carers and advocates can help with or advise on best ways of communicating with a patient. Carers' centres and similar services can advise carers on their rights and can also answer general questions on the Mental Health Act Code procedures and other issues.

4.6 Where an interpreter is needed, every effort should be made to identify an interpreter who is appropriate to the patient, given the patient's sex, religion or belief, dialect, cultural background and age. Interpreters need to be skilled and experienced in medical or health-related interpreting. Using the patient's relatives and friends as intermediaries or interpreters is not good practice, and should only exceptionally be used, including when the patient is a child or a young person. Interpreters (both professional and non-professional) must respect the confidentiality of any personal information they learn about the patient through their involvement.

4.7 Independent mental health advocates (IMHAs) engaged by patients can be valuable in helping patients to understand the questions and information being presented to them and in helping patients to communicate their views to staff.

4.8 Wherever possible, patients should be engaged in the processes of reaching decisions which affect their care and treatment under the Act. Consultation with patients involves helping them to understand the information relevant to decisions, their own role and the roles of others who are involved in taking decisions. 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. Carers and advocates should be involved where the patient wishes or if the patient lacks capacity to understand.

#### Information for detained patients and patients on CTOs

4.9 The Act requires hospital managers to take steps to ensure that patients who are detained in hospital under the Act, or who are subject to a community treatment order, understand important information about how the Act applies to them. This must be done as soon as practicable after the start of the patient's detention or the CTO. This information must be given to patients subject to a CTO ('community patients') who are recalled to hospital at the time they are being recalled.

4.10 Information must be given to the patient both orally and in writing, including in accessible formats as appropriate (eg Braille, Moon, easy read) and in a language the patient understands. These are not alternatives. Those providing information to patients should ensure that all relevant information is communicated in a way that the patient understands.

4.11 It would not be sufficient to repeat what is already written on an information leaflet as a way of providing information orally.

4.12 Patients should be given all relevant information, including on complaints, advocacy, legal advice, safeguarding and the role of the Care Quality Commission (CQC). This information should be readily available to them throughout their detention or the period of the CTO.

#### Information about detention and CTOs

4.13 Patients must be informed:

- of the provisions of the Act under which they are detained or subject to a CTO and the effect of those provisions
- of the rights (if any) of their nearest relative to discharge them (and what can happen if their responsible clinician does not agree with that decision)
- for community patients, of the effect of the CTO, including the conditions which they are required to keep and the circumstances in which their responsible clinician may recall them to hospital, and
- that help is available to them from an IMHA, and how to obtain that help.

4.14 As part of this, they should be told:

- the reasons for their detention or CTO
- the maximum length of the current period of detention or CTO
- 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
- that they will not automatically be discharged when the current period of detention or CTO ends
- that their detention or CTO will not automatically be renewed or extended when the current period of detention or CTO ends
- the reasons for being recalled, and

- for patients subject to a CTO, the reasons for the revocation of a CTO.

4.15 Patients should also be told the essential legal and factual grounds for their detention or CTO. For the patient to be able to adequately and effectively challenge the grounds for their detention or their CTO, should they wish, they should be given the full facts rather than simply the broad reasons. This should be done promptly and clearly. They should be told they may seek legal advice, and assisted to do so if required.

4.16 In addition, a copy of the detention or CTO documentation should be made available to the patient as soon as practicable and as a priority, unless the hospital managers are of the opinion (based on the advice of the authors of the documents) that the information disclosed would adversely affect the health or wellbeing of the patient or others. It may be necessary to remove any personal information about third parties.

4.17 Where the section of the Act under which the patient is being detained changes, they must be provided with the above information to reflect the new situation. The same applies where a detained patient becomes subject to a CTO.

#### Information about recall to hospital whilst on CTO

4.18 Where a patient is to be recalled to hospital, the responsible clinician should give (or arrange for the patient to be given) oral reasons for the decision before the recall. The patient may nominate another person who they wish to be notified of the decision.

4.19 Where a conditionally discharged patient is to be recalled to hospital, a brief verbal explanation of the Secretary of State's reasons for recall must be provided to the patient at the time of recall unless there are exceptional reasons why this is not possible, eg the patient is violent or too distressed. The Secretary of State's warrant will detail the reasons. The patient should also receive a full explanation of the reasons for his or her recall within 72 hours after admission, and both written and oral explanations should be provided.

#### Information about consent to treatment

4.20 Patients must be told what the Act says about treatment for their mental disorder. In particular they must be told:

- 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
- the role of second opinion appointed doctors (SOADs) and the circumstances in which they may be involved, and
- (where relevant) the rules on electro-convulsive therapy (ECT) and medication administered as part of ECT

#### Information about seeking a review of detention or CTOs

4.21 Patients must be informed of their rights to be considered for discharge, particularly:

- of the right of the responsible clinician and the hospital managers to discharge them (and, for restricted patients, that it is subject to the agreement of the Secretary of State for Justice)
- of their right to ask the hospital managers to discharge them

- that the hospital managers must consider discharging them when their detention is renewed or their CTO is extended
- of their rights to apply to the Tribunal
- of the rights (if any) of their nearest relative to apply to the Tribunal on their behalf
- about the role of the Tribunal, and
- how to apply to the Tribunal.

4.22 Hospital managers should ensure that patients are offered assistance to request a hospital managers' hearing or make an application to the Tribunal, and that the applications are transmitted to the Tribunal without delay. They should also be told:

- how to contact a suitably qualified legal representative (and should be given assistance to do so if required)
- that free legal aid may be available, and
- how to contact any other organisation which may be able to help them make an application to the Tribunal.

4.23 It is particularly important that patients are well-informed and supported to make an application to the Tribunal if they are on a CTO, do not otherwise have regular contact with their nearest relative or people who could help them make an application, or lack capacity. If a patient lacks capacity to decide whether to seek a review of detention or a CTO, an IMHA should be introduced to the patient so that the IMHA can explain what help they can offer.

4.24 Patients whose CTOs are revoked, and conditionally discharged patients recalled to hospital, should be told that their cases will be referred automatically to the Tribunal.

#### Information about the CQC

4.25 Patients must be informed about the role of the CQC and of their right to meet visitors appointed by the CQC in private. Patients should be told when the CQC is to visit their hospital and be reminded of the CQC's role.

4.26 Patients may make a complaint to the CQC, and must be informed of the process for this. Support should be made available to patients to do this, if required.

#### Information about withholding of correspondence

4.27 Detained patients must be told that their letters for posting may be withheld if the person to whom it is addressed asks the hospital managers to do so. Patients in high security psychiatric hospitals must be told about the other circumstances in which their correspondence may be withheld, the procedures that will be followed and of their right to ask the CQC to review the decisions taken.

#### Keeping patients informed of their rights

4.28 Those with responsibility for patient care should ensure that patients are reminded from time to time of their rights and the effects of the Act. It may be necessary to give the same information on a number of different occasions or in different formats and to check regularly that the patient has fully understood it. Information given to a patient who is unwell may need to be repeated when their condition has improved. It is helpful to ensure that patients are aware that an IMHA can help them to understand the information.

4.29 A fresh explanation of the patient's rights should be considered in particular where:

- the patient is considering applying to the Tribunal, or when the patient becomes eligible again to apply to the Tribunal
- the patient requests the hospital managers to consider discharging them, or such a request is refused
- the rules in the Act about their treatment change (eg because three months have passed since they were first given medication, or because they have regained capacity to consent to treatment)
- any significant change in their treatment is being considered
- there is to be a care programme approach review (or its equivalent)
- renewal of their detention, or extension of their CTO is being considered
- a decision is taken to renew their detention or to extend their CTO
- a decision is taken to recall a community patient or revoke a CTO, or
- a decision is taken to recall a conditionally discharged patient to hospital.

4.30 When a detained patient or a community patient is discharged, or the authority for their detention or the CTO expires, this fact should be made clear to them. The patient should be given an explanation of what happens next, including any section 117 after-care or other services which are to be provided.

#### Information for nearest relatives

4.31 The Act requires hospital managers to take such steps as are practicable to give the patient's nearest relative a copy of any information given to the patient in writing, unless the patient requests otherwise. The information should be given to the nearest relative when the information is given to the patient, or within a reasonable time afterwards.

4.32 When a patient detained under the Act or subject to a CTO is given information, they should be told that the written information will also be supplied to their nearest relative, so that they can discuss their views about sharing this information and following this discussion, raise any concerns or object to the sharing of some or all of this information. There should be discussion with the patient at the earliest possible time as to what information they are happy to share and what they would like to be kept private.

4.33 The nearest relative must be told of the patient's discharge from detention or CTO (where practicable), unless either the patient or the nearest relative has requested that information about discharge should not be given. This includes discharge from detention onto a CTO. If practicable, the information should be given at least seven days in advance of the discharge.

4.34 In addition, regulations require nearest relatives to be informed of various other events, including the renewal of a patient's detention, extension of a CTO and transfer from one hospital to another.

4.35 These duties to inform nearest relatives are not absolute. In almost all cases, information is not to be shared if the patient objects.

4.36 In addition, occasionally there will be cases where these duties do not apply because disclosing information about the patient to the nearest relative 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

nearest relative. This would therefore be a breach of the patient's right to privacy under article 8 of the European Convention on Human Rights (ECHR). The risk of this is greatest where the nearest relative is someone whom the patient would not have chosen themselves. Before disclosing information to nearest relatives 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.

#### Communication with other people nominated by the patient

4.37 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.

4.38 Patients may nominate an IMHA, another independent advocate, or a legal professional. They may also nominate a carer or other informal supporter or advocate.

4.39 The involvement of such carers 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 articulate information and views and may have knowledge of advance decisions or statements made by the patient.

4.40 Professionals should normally agree to a patient's request to involve carers, relatives, friends or other informal supporters or advocates. 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 in making the decision in question that would not be in the patient's interests
- the involvement of the person is contrary to the interests of the patient, or
- that person has requested that they should not be involved.

4.41 Professionals should 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.

#### Involvement of carers

4.42 Carers are key partners with health and care services and local authorities in providing care, especially for relatives and friends who have mental disorders.<sup>1</sup> In many instances, especially when a patient is not in hospital, the patient's carers and

wider family will provide more care and support than health and social care professionals. It is important for professionals to identify all individuals who provide care and support for patients, to ensure that health and care services assess those carers' needs and, where relevant, provide support to meet them. Local authorities also have duties in the Care Act 2014 to assess adult carers' current and future needs for support and, must meet eligible needs for support. The Children and Families Act 2014 also places a duty on local authorities to assess needs for support of both parent carers of disabled children and young carers.

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

4.44 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 assist them in participating, and
- timely access to comprehensive, up-to-date and accurate information.

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

4.46 If carers request that the information they provide is kept confidential, this should be respected and recorded in the patient's notes. A carer should be asked to consent to such information being disclosed. Where a carer refuses to consent, professionals should discuss with the carer the benefits of sharing information in terms of patient care and how their concerns could be addressed.

4.47 Paragraph 4.44 applies equally to children, young people or individuals with a learning disability who are supporting parents who have mental disorder. In considering the kind and amount of information which 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 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 young person.

#### Hospital managers' information policy

4.48 The formal duty to ensure that detained and community patients, and their nearest relatives, have been informed about their legal situation and rights falls to the hospital managers. In practice, it would usually be more appropriate for professionals working with the patient to provide them with the information. In order to fulfil their statutory duties hospital managers should have policies in place to ensure that:

- the correct information is given to patients and their nearest relatives
- information is given in accordance with the requirements of the legislation, at a suitable time and in an accessible format, where appropriate with the aid of assistive technologies and interpretative and advocacy services
- people who give the information have received adequate and appropriate training and guidance and, if relevant, have specialist skills in relation to people with learning disability, autism and/or children and young people

- a record is kept of the information given, including how, when, where and by whom it was given, and an assessment made of how well the information was understood by the recipient
- regular checks are made that information has been properly given to each patient and understood by them, and
- information must be provided in a format and/or language that the individual understands (eg Braille, easy read or Moon).

Information for informal hospital inpatients

4.49 Although the Act does not impose any duties to give information to informal patients, these patients should have their legal position and rights explained to them.

4.50 Informal patients should be provided with relevant information (eg about how to make a complaint and consent requirements for treatment).

4.51 Informal patients must be allowed to leave if they wish, unless they are to be detained under the Act. Both the patient and, where appropriate, their carer and advocate should be made aware of this right with information being provided in a format and language the patient understands. Local policies and arrangements about movement around the hospital and its grounds must be clearly explained to the patients concerned. Failure to do so could lead to a patient mistakenly believing that they are not allowed to leave hospital, which could result in an unlawful deprivation of their liberty and a breach of their human rights.

**The Trust Process - Electronic Recording on SystemOne**

Maintaining accurate records of section 132 in accordance with the legislative and Code of Practice requirements set out above is essential in ensuring compliance and best practice.

The Trust provides for the electronic recording of section 132. It is the responsibility of the nursing staff (with responsibility for patients subject to the Act) to ensure accurate and up to date records are maintained.

Electronic recording - There are a number of electronic forms each with a specific purpose that follow the patient's detention pathway. These forms should be completed at relevant points in that pathway.

Attached to this document is an Appendix that provides guidance to nurses in the use of those forms, the example used to be the form used at the point of detention.

- The six forms are:

- S132 – at the point of detention
- S132 – Review (revisit)- at least monthly
- S132 – Regrade of detention order
- S132 – Renewal or Extension (CTO)
- S132 – Discharge from detention
- S132 – Going onto a CTO

It is the responsibility of qualified nursing staff to familiarise themselves with the process and the relevant forms.

Section 132 forms will be subject to ongoing monitoring through audit and the MHA census (for which they will be the main source of information).

## 7. References and Bibliography

[New Mental Health Act code of practice - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

[Mental Health Act 1983 \(legislation.gov.uk\)](http://legislation.gov.uk)

[Mental Health Act 1983: reference guide - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

## 8. Fraud, Bribery & Corruption Consideration

The Trust has a zero-tolerance approach to fraud, bribery and corruption in all areas of our work and it is important that this is reflected through all policies and procedures to mitigate these risks.

- Fraud relates to a dishonest representation, failure to disclose information or abuse of position in order to make a gain or cause a loss. Bribery involves the giving or receiving of gifts or money in return for improper performance. Corruption relates to dishonest or fraudulent conduct by those in power.
- Any procedure incurring costs or fees or involving the procurement or provision of goods or service, may be susceptible to fraud, bribery, or corruption so provision should be made within the policy to safeguard against these.
- If there is a potential that the policy being written, amended or updated controls a procedure for which there is a potential of fraud, bribery, or corruption to occur you should contact the Trusts Local Counter Fraud Specialist (LCFS) for assistance.

## Appendix 1 Guidance for Nurses

### RECORDING SECTION 132 INFORMATION ON SystemOne THE NURSES PROCESS

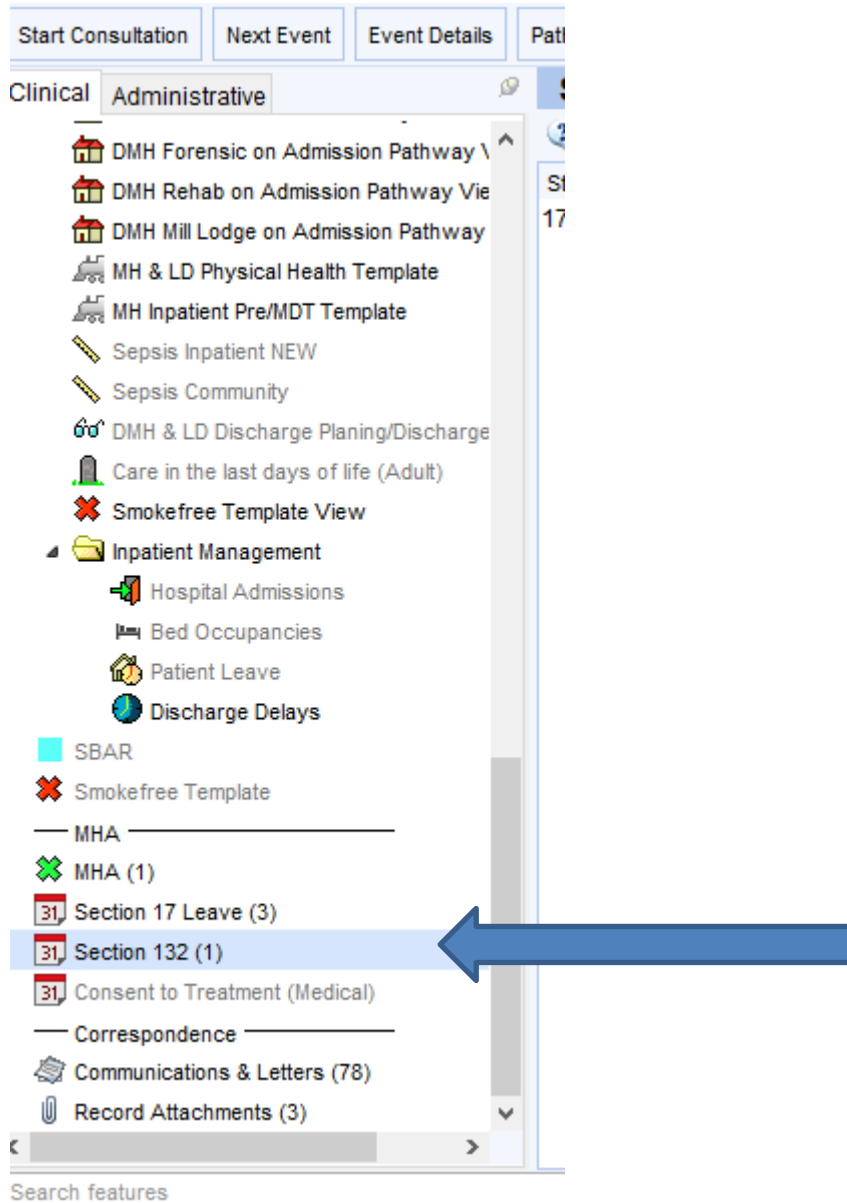
4.2 *Effective communication is essential in ensuring appropriate care and respect for patients' rights, and those responsible for caring for patients should identify any communication difficulties and seek to address them. The Act requires hospital managers to take steps to ensure that patients who are detained or are the subject of a community treatment order (CTO) understand important information about how the Act applies to them.*

**MHA Code of Practice 2015**

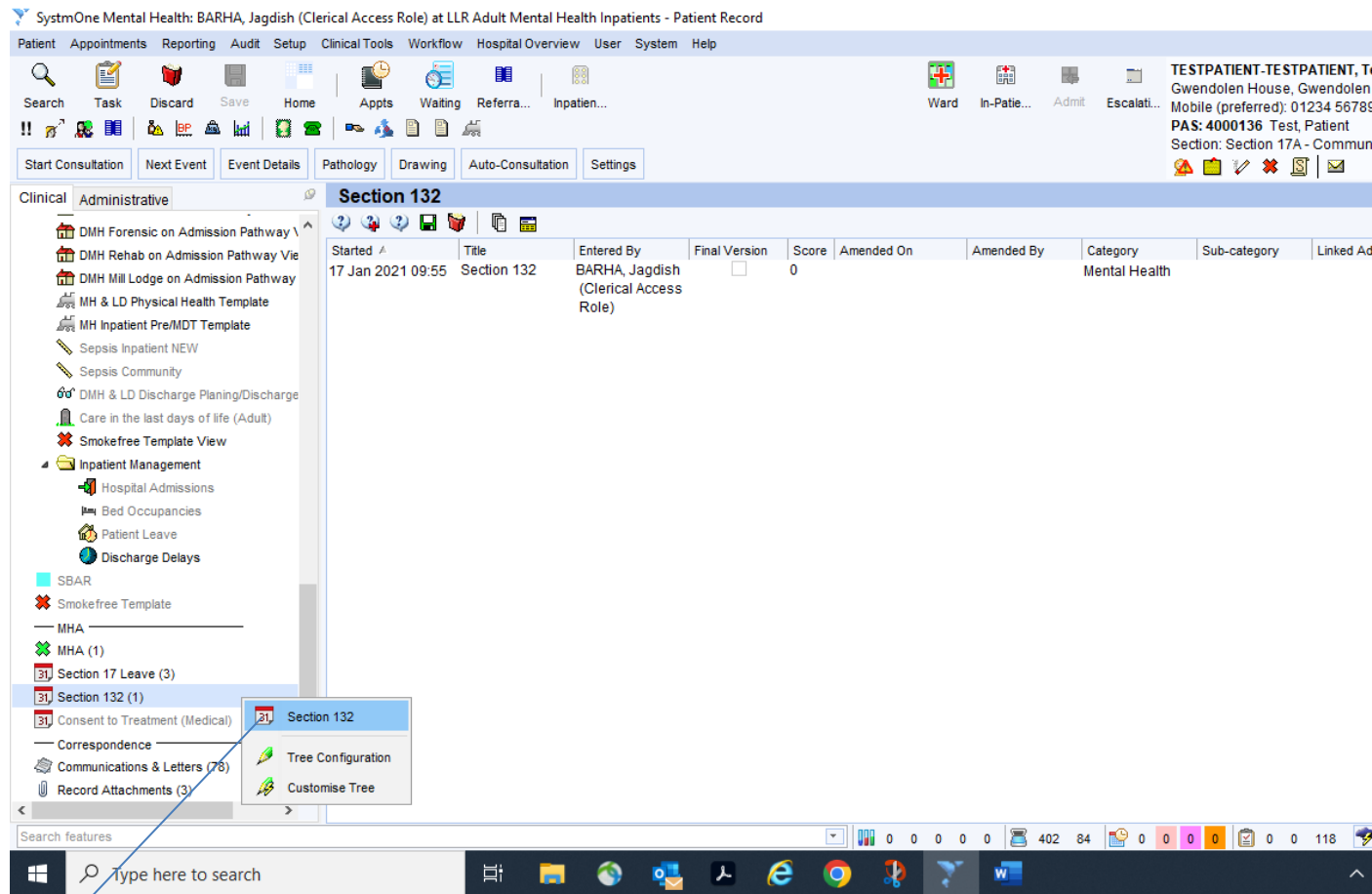
- SystemOne provides for Six different forms for recording the provision of information to the patient in accordance with the requirements of section 132 of the Mental Health Act.
- These forms follow a patient's pathway through the detention process, as follows:
  - Form 1 – (Information) at the initial Point of Detention
  - Form 2 – (Information) Subsequently/Review
  - Form 3 – (Information) at the time of Re-grade onto another section
  - Form 4 – (Information) at the time of Discharge from detention
  - Form 5 – (Information) at the time of Renewal/Extension of authority to detain
  - Form 6 – (Information) when a Community Treatment Order

## Appendix 2 – Recording S132 on SystemOne

The Section 132 form is located on the clinical tree under the MHA tab as shown below –

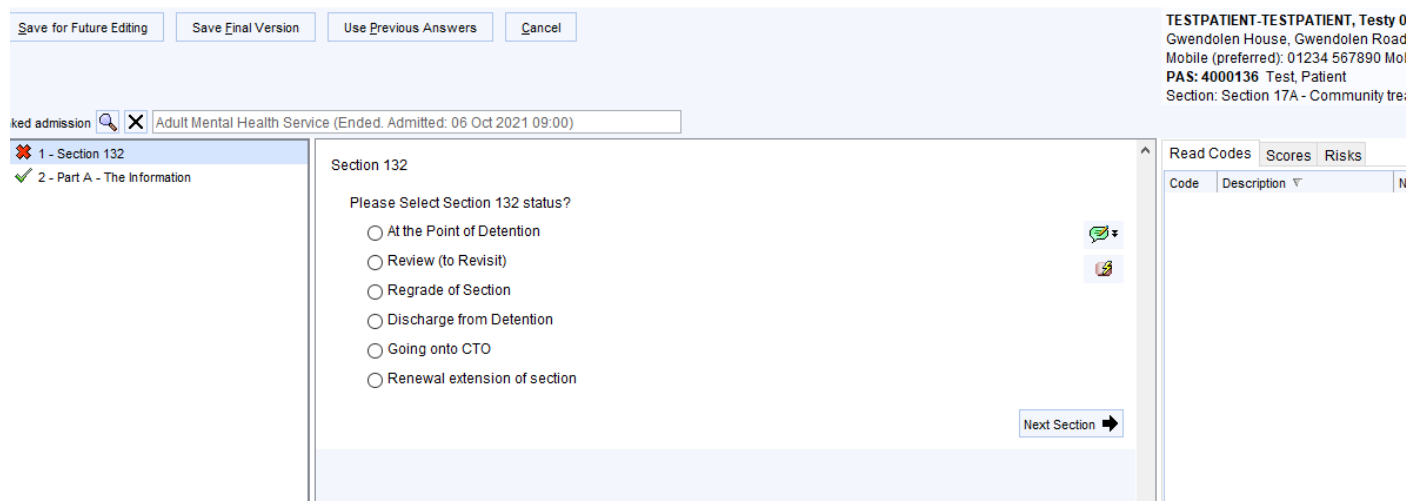


To complete a new form, right click on the Section 132 option and you will see the following pop-up box –



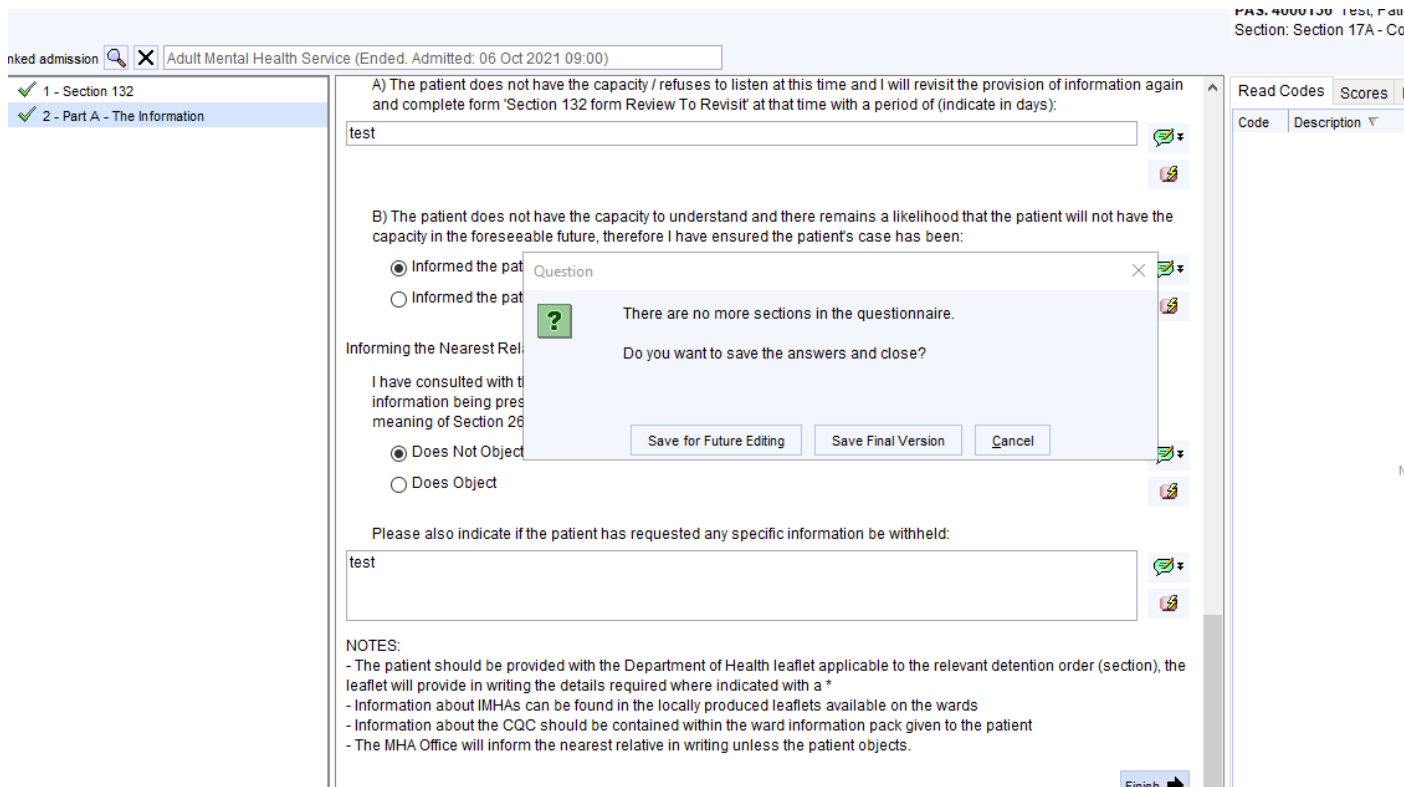
Select the Section 132 form from the list here.

You will then see the form, as shown below-



Select the form you require from the list above.

Once the form has been completed you have the following options –

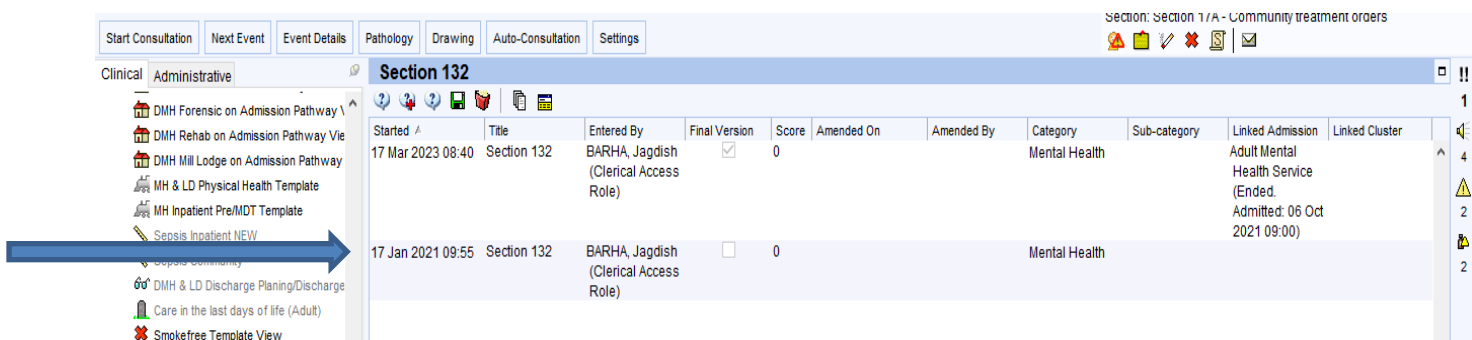


Save for future editing will allow you to amend the form.

Save final version will not allow you edit the form.

Use previous answers will allow you to use the previous answers for the same form, this could be used for example: when revisiting the rights for Section 3 patients on a monthly basis or CTO patients every 3 months.

Once you have saved the form to allow for future editing it will show as below –



To save a form as a final version, use the following guidance –

Select the option from the following screen –

The screenshot shows a web form titled 'Adult Mental Health Service (Ended, Admitted: 06 Oct 2021 09:00)'. The form is divided into sections: '1 - Section 132' and '2 - Part A - The Information'. A 'Question' pop-up dialog is displayed in the center, asking 'There are no more sections in the questionnaire. Do you want to save the answers and close?'. The dialog has three buttons: 'Save for Future Editing', 'Save Final Version', and 'Cancel'. The form content includes two text input fields with the word 'test' entered, and a 'NOTES' section with several bullet points. The right-hand side of the screen shows a 'Read Codes' table with columns for 'Code', 'Description', 'Scores', and 'Risks', which is currently empty.

You will then get the following pop-up box to confirm you are saving the form as a final version.

Select Yes

This screenshot shows the same web form as above, but with a different 'Question' pop-up dialog. The dialog asks 'This will lock this questionnaire and prevent any future changing of answers by any user. Do you want to continue?'. It has two buttons: 'Yes' and 'No'. The form content and the 'Read Codes' table are the same as in the previous screenshot.

You will then be asked to put the date and time of your assessment. You can input a date and time retrospectively.

B) The patient does not have the capacity to understand and there remains a likelihood that the patient will not have the capacity in the foreseeable future, therefore I have ensured the patient's case has been:

Informed the patients nearest relative

Informed the patients carer / representative

Informing the Nearest Relative

I have consulted with the patient (who has been asked for their consent to the information being presented in Part A of this document) to the nearest relative (under the meaning of Section 26 of the MHA) and the patient:

Does Not Object

Does Object

Please also indicate if the patient has requested any specific information be withheld:

est

NOTES:  
The patient should be provided with the Department of Health leaflet applicable to the relevant detention order (section), the

Record Time of Assessment

Time of assessment 17/03/2023 08:40

Ok

The form will then show with a ✓ in the final version tab as shown below –

Start Consultation Next Event Event Details Pathology Drawing Auto-Consultation Settings

Section: Section 17A - Com

Clinical Administrative

Section 132

Started	Title	Entered By	Final Version	Score	Amended On	Amended By	Category	Sub-category	Link
17 Mar 2023 08:40	Section 132	BARHA, Jagdish (Clerical Access Role)	<input checked="" type="checkbox"/>	0			Mental Health		Adult Heal (End Adm 202
17 Jan 2021 09:55	Section 132	BARHA, Jagdish (Clerical Access Role)	<input type="checkbox"/>	0			Mental Health		

DMH Forensic on Admission Pathway V  
DMH Rehab on Admission Pathway V  
DMH and LD on Admission Pathway V  
MH & LD Physical Health Template  
MH Inpatient Pre/MDT Template  
Sepsis Inpatient NEW  
Sepsis Community  
DMH & LD Discharge Planing/Discharge  
Care in the last days of life (Adult)  
Smokefree Template View

To access a completed form use the following guidance

The screenshot displays the SystmOne Mental Health interface. At the top, the patient information for 'TESTPATIENT-TESTPATIENT, Testy 01 Jan 2001 (22 Y) F' is visible. The main area shows a table of forms under the heading 'Section 132'. A right-click context menu is open over the form dated '17 Jan 2021 09:55'. The menu options include: Amend Questionnaire, Copy Questionnaire, View Questionnaire, Print Questionnaire, Save to File, Save Final Version, Unlink from Admission, View in Word, Write Word Letter, View Version History, Show Derived Items, Show Journal Entry..., Problems, Risks, Mark in Error, and Table. A blue arrow points from the text below to the 'Amend Questionnaire' option in the menu.

Started	Title	Entered By	Final Version	Score	Amended On	Amended By	Category	Sub-category	Linked Admission	Linked Cluster
17 Mar 2023 08:40	Section 132	BARHA, Jagdish (Clerical Access Role)	<input checked="" type="checkbox"/>	0			Mental Health		Adult Mental Health Service (Ended: 06 Oct 2021 09:00)	
17 Jan 2021 09:55	Section 132	BARHA, Jagdish (Clerical Access Role)	<input type="checkbox"/>				Mental Health			

Right click on the form you want to access. You will see the pop-up box shown above with a list of options. From here you will be able to amend, view, copy etc.

## Appendix 2 Training Requirements

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### Training Needs Analysis

<b>Training topic:</b>	Mental Health Act 1983
Type of training: (see study leave policy)	<input type="checkbox"/> Mandatory (must be on mandatory training register) <input checked="" type="checkbox"/> Role specific <input type="checkbox"/> Personal development
Directorate to which the training is applicable:	<input checked="" type="checkbox"/> Adult Mental Health <input checked="" type="checkbox"/> Community Health Services <input type="checkbox"/> Enabling Services <input checked="" type="checkbox"/> Families Young People Children / Learning Disability/ Autism Services <input type="checkbox"/> Hosted Services
Staff groups who require the training:	<i>Band 5 nurses and above</i>
Regularity of Update requirement:	Three-yearly
Who is responsible for delivery of this training?	Senior MHA Administrator Deputy to the Senior MHA Administrator
Have resources been identified?	Yes
Has a training plan been agreed?	Yes
Where will completion of this training be recorded?	<input checked="" type="checkbox"/> ULearn <input type="checkbox"/> Other (please specify)
How is this training going to be monitored?	Through reporting to the MHA GDG

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### Appendix 3 The NHS Constitution

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- The NHS will provide a universal service for all based on clinical need, not ability to pay.
- The NHS will provide a comprehensive range of services.

Shape its services around the needs and preferences of individual patients, their families and their carers	Y
Respond to different needs of different sectors of the population	Y
Work continuously to improve quality services and to minimise errors	Y
Support and value its staff	Y
Work together with others to ensure a seamless service for patients	Y
Help keep people healthy and work to reduce health inequalities	Y
Respect the confidentiality of individual patients and provide open access to information about services, treatment and performance	Y

## Appendix 4 Due Regard Screening Template

Section 1	
Name of activity/proposal	MHA Section 132 Statutory Duty to Provide Information
Date Screening commenced	13/09/23
Directorate / Service carrying out the assessment	Enabling Directorate
Name and role of person undertaking this Due Regard (Equality Analysis)	Alison Wheelton Senior MHA Administrator
Give an overview of the aims, objectives and purpose of the proposal:	
AIMS: This procedure aims to provide staff with delegated responsibility under the Mental Health Act and in accordance with the Trust Delegation Document, with the knowledge to undertake those responsibilities.	
OBJECTIVES: To ensure staff have the necessary knowledge and tools to ensure the authorisation, implementation and recording and monitoring of section 132 is done so in accordance with legislative and good practice requirements.	
Section 2	
Protected Characteristic	If the proposal/s have a positive or negative impact please give brief details
Age	Positive impact as this procedure is supportive to staff who fall within the remit of the Equality Act 2010, ensuring consistency in approach for all staff irrespective of who they are.
Disability	As above
Gender reassignment	As above
Marriage & Civil Partnership	As above
Pregnancy & Maternity	As above
Race	As above
Religion and Belief	As above
Sex	As above
Sexual Orientation	As above
Other equality groups?	As above
Section 3	
Does this activity propose major changes in terms of scale or significance for LPT? For example, is there a clear indication that, although the proposal is minor it is likely to have a major affect for people from an equality group/s? Please tick appropriate box below.	
	<b>No</b>
High risk: Complete a full EIA starting click <a href="#">here</a> to proceed to Part B	Low risk: Go to Section 4.
Section 4	
If this proposal is low risk please give evidence or justification for how you reached this decision:	
This procedure outlines staff responsibilities and is in accordance with legislative and statutory requirements	
Signed by reviewer/assessor	<i>Alison Wheelton</i> Date 13/09/23
<i>Sign off that this proposal is low risk and does not require a full Equality Analysis</i>	
Head of Service Signed	As Above Date 13/09/23

## Appendix 5 Data Privacy Impact Assessment Screening

<p>Data Privacy impact assessment (DPIAs) are a tool which can help organisations identify the most effective way to comply with their data protection obligations and meet Individual's expectations of privacy.</p> <p>The following screening questions will help the Trust determine if there are any privacy issues associated with the implementation of the Policy. Answering 'yes' to any of these questions is an indication that a DPIA may be a useful exercise. An explanation for the answers will assist with the determination as to whether a full DPIA is required which will require senior management support, at this stage the Head of Data Privacy must be involved.</p>		
<b>Name of Document:</b>	<b>(Mental Health Act) Section 132 Statutory Duty to Provide Information</b>	
<b>Completed by:</b>	<b>Alison Wheelton</b>	
<b>Job title</b>	<b>Senior MHA Administrator</b>	<b>Date 13/09/23</b>
<b>Screening Questions</b>	<b>Yes / No</b>	<b>Explanatory Note</b>
<b>1. Will the process described in the document involve the collection of new information about individuals? This is information in excess of what is required to carry out the process described within the document.</b>	No	
<b>2. Will the process described in the document compel individuals to provide information about them? This is information in excess of what is required to carry out the process described within the document.</b>	No	
<b>3. Will information about individuals be disclosed to organisations or people who have not previously had routine access to the information as part of the process described in this document?</b>	No	
<b>4. Are you using information about individuals for a purpose it is not currently used for, or in a way it is not currently used?</b>	<b>No</b>	
<b>5. Does the process outlined in this document involve the use of new technology which might be perceived as being privacy intrusive? For example, the use of biometrics.</b>	No	
<b>6. Will the process outlined in this document result in decisions being made or action taken against individuals in ways which can have a significant impact on them?</b>	No	
<b>7. As part of the process outlined in this document, is the information about individuals of a kind particularly likely to raise privacy concerns or expectations? For examples, health records, criminal records or other information that people would consider to be particularly private.</b>	No	
<b>8. Will the process require you to contact individuals in ways which they may find intrusive?</b>	<b>No</b>	
<p><b>If the answer to any of these questions is 'Yes' please contact the Data Privacy Team via <a href="mailto:Lpt-dataprivacy@leicspart.secure.nhs.uk">Lpt-dataprivacy@leicspart.secure.nhs.uk</a></b>  <b>In this case, ratification of a procedural document will not take place until review by the Head of Data Privacy.</b></p>		
<b>Data Privacy approval name:</b>	N/A	
<b>Date of approval</b>		

Acknowledgement: This is based on the work of Princess Alexandra Hospital NHS Trust