

APPROVED CLINICIAN (AC) POLICY FOR MEDICAL STAFF

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DOCUMENT CONTROL

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CONTENTS

Section	Summary of Section	Page
Doc	Document Control	2
Cont	Contents	3
1	Introduction	4
2	Purpose & Scope	5
3	Duties and Responsibilities	5
4	Explanations of Terms used	6
5	Allocation of a Responsible Clinician	7
6	Liability and Indemnity	12
7	Training requirements	12
8	Equality Impact Assessment	12
9	Monitoring Compliance and Effectiveness	13
10	Counter Fraud	13
11	Relevant CQC Registration Standards	13
12	References and Associated Documents	14
13	Appendices	14
	Appendix A – Notification of Change of RC Form	15

1. INTRODUCTION

- 1.1 An Approved Clinician (AC) is a mental health professional approved by the Secretary of State for the purposes of the Mental Health Act (1983). In the case of detained patients and patients on a Community Treatment Order (CTO) the clinician in charge of treatment must be an AC. Registered medical practitioners who are ACs under the Mental Health Act (MHA) are automatically treated as also being approved under Section 12 (S12). This function of the Secretary of State is exercised by the 'approving bodies' that are responsible for maintaining the online national S12 / AC register. NHS South of England is the relevant approving body for Somerset Partnership NHS Foundation Trust.
- 1.2 The Responsible Clinician (RC) is the AC with overall responsibility for a patient's case. Certain decisions can only be made by the RC, such as reviewing a patient's detention or placing a patient on a Community Treatment Order.
- 1.3 The 2007 amendment to the MHA introduced a number of changes including making it possible for psychologists, nurses, social workers and occupational therapists to train as ACs and consequently to act as RCs. This role had previously only been open to registered medical practitioners.
- 1.4 The Mental Health Act Code of Practice requires that hospital managers should have local protocols in place for allocating RCs to patients. This is particularly important when patients move between hospitals or from the hospital to the community and vice versa. The protocols should:
- ensure that the patient's RC is the available AC with the most appropriate expertise to meet the patient's main assessment and treatment needs
 - ensure that it can be easily determined who a particular patient's RC is
 - ensure that cover arrangements are in place when the RC is not available (e.g. during non-working hours, annual leave etc.), and
 - include a system for keeping the appropriateness of the RC under review.
- 1.5 The Code of Practice requires hospital managers to keep a register of ACs to treat patients for whom they are responsible and to ensure that ACs are in charge of treatment where the MHA requires it. Hospital managers should also ensure that the most appropriate available AC is allocated as the patient's RC. This should be based on the needs of the individual patient, for example where psychological therapies are central to the patient concerned it may be appropriate for a professional with particular experience in this area to act as the RC. Wherever possible, the clinician responsible for the care and treatment of children and young people should be a child and adolescent mental health services (CAMHS) specialist. Even if the patient's main treatment needs are not immediately clear, it will be necessary to allocate an RC promptly on the patient's detention in hospital.
- 1.6 Doctors and ACs have 'holding powers' under Section 5(2) of the Mental Health Act. These powers can be used where the doctor or AC in charge of

the treatment of a hospital in-patient (or their nominated deputy) concludes that an application for detention under the Act should be made. Section 5(2) authorises detention in hospital for up to 72 hours to allow a MHA assessment to take place. The Code of Practice states that hospital managers should ensure that ward staff know who the nominated deputy for a particular patient is at any given time. A nominated deputy cannot nominate another. Only a doctor or AC on the staff of the same hospital may be a nominated deputy (although the deputy does not have to be a member of the same profession). The nominated deputy can only exercise Section 5(2) powers in the absence of the doctor or AC in charge.

2. PURPOSE & SCOPE

- 2.1 This policy has been developed to ensure that the Trust meets its responsibilities in relation to Code of Practice requirements for medical staff acting as ACs (including nomination of deputies for Section 5(2)).
- 2.2 The main purpose of the policy is to ensure that, for all patients detained under the Mental Health Act, or subject to Supervised Community Treatment, there are clear and thorough arrangements in place for the allocation of a Responsible clinician, including the provision of cover both in and out of working hours, such that at all times there is an identified Responsible Clinician.

3. DUTIES AND RESPONSIBILITIES

- 3.1 The **Lead Director** is the Medical Director.
- 3.2 The **Identified Lead (Author)** is The Mental Health Act Coordination Lead who is responsible for ensuring that the policy and appendices are reviewed and amended as appropriate
- 3.3 The **Mental Health Legislation (MHL) Group** will review and update the policy.
- 3.4 The **Senior Managers Operational Group** is responsible for agreeing and ratifying the policy and appendices.
- 3.5 The **Medical Director** is responsible for maintaining a Trust register of ACs available to treat patients.
- 3.6 The **Medical Director** is responsible for ensuring that there is a system in place to make sure that medical staff appointed to undertake RC roles have the relevant approval when they take up their post, whether this is a substantive or temporary / locum appointment,
- 3.7 **Approved Clinicians** are responsible for maintaining their approval, including undertaking required refresher training and applying for re-approval in a timely manner in order to continue to lawfully undertake the RC role. They should include AC and Section 12 approval certification in evidence for annual medical appraisal.
- 3.8 **Approved Clinicians** must be prepared to act as the RC for patients according to the procedures in this policy and appendices. These procedures ensure that the most appropriate AC is allocated promptly. However there will be instances where the needs of the individual patient

are best met by an alternative practitioner acting as RC, for example a non-medical AC. ACs must therefore constructively participate in joint clinical decision making through multi-disciplinary discussion to ensure a flexible and patient-centred approach. ACs must also continue to consider whether the needs of the patient have changed over time and therefore whether an alternative RC is now more appropriate.

- 3.9 **Approved Clinicians** are individually responsible for their actions and for complying with procedures and protocols. Trusts are accountable for the decisions made by health care professionals about their practice and have a responsibility to ensure that treatment and care is based on nationally agreed best practice where it exists.
- 3.10 It is essential for all **Approved Clinicians** to fully take into account the different backgrounds, choice, accessibility, diversity and cultural needs of service users and their carers. Their involvement must be in a language and format which they are able to understand. This may necessitate the use of professional language support.
- 3.11 It is essential that the importance of communication be emphasised, as is the necessity to involve service users, together with their family and carers, in their care. A service user should be considered a partner in their care and their agreement sought where possible.
- 3.12 Individual **Approved Clinicians** must understand and accept the higher level of clinical responsibility associated with the role. They must:
- Adhere to and promote the highest standards of ethical conduct.
 - Ensure legal processes, including the Mental Health Act itself, are adhered to at all times
 - Ensure the Code of Practice to the Act is adhered to, unless there is good reason not to adhere to the Code.
 - Ensure record keeping is both accurate and up-to-date, including updates whenever there is a change in the RC
 - Reflect on their practice as an AC.
- 3.13 **Associate Medical Directors** are responsible for ensuring that there is cover in place for Responsible Clinicians who are absent, for example on sick leave. This responsibility includes ensuring that temporary and locum staff acting in roles that require approval (whether Section 12 or AC) can either meet this requirement personally or that an alternative arrangement for cover is otherwise in place. Associate Medical Directors must ensure that systems are in place for the allocation of an RC both in and out of usual working hours.

4. EXPLANATIONS OF TERMS USED

- 4.1 **Approved Clinician (AC):** A mental health professional approved by the Secretary of State for the purposes of the Mental Health Act (1983). ACs have various responsibilities under the Act, for example medical treatment cannot (in general) be given without a patient's consent unless an AC is in charge of it. Only ACs can act as Responsible Clinicians.
- 4.2 **CAMHS:** Child and adolescent mental health services.

- 4.3 **Community Treatment Order (CTO):** An order made by the patient's Responsible Clinician under Section 17A of the Mental health Act discharging a patient from detention in hospital, subject to the possibility of recall to hospital for further medical treatment if necessary. Patients subject to a CTO are expected to comply with the conditions specified by the order.
- 4.4 **Hospital Managers:** This refers to Somerset Partnership NHS Foundation Trust as a body. Incidentally, the Act itself also uses the term in the context powers to discharge patients in a 'hospital managers' hearing, but this alternative use is not directly relevant to this policy.
- 4.5 **MHA:** Mental Health Act (1983)
- 4.6 **Nominated Deputy:** The doctor or approved clinician in charge of a hospital in-patient may nominate a deputy to exercise their powers under Section 5(2) in their absence. The nominated deputy must be a doctor or AC on the staff of the same hospital. Only one deputy may be authorised at any one time.
- 4.7 **Non-medical AC:** A non-medical registered practitioner who has successfully completed post registration training in becoming an AC, and has had the approval recorded by the approving body and also by the Trust.
- 4.8 **Responsible Clinician (RC):** The AC with overall responsibility for a detained or CTO patient's case. Certain decisions can only be made by the RC, such as reviewing a patient's detention or placing a patient on a CTO. The functions of the RC may not be delegated, but the patient's RC may change from time to time and the role may be occupied on a temporary basis in the absence of the usual RC (including periods of leave and in and out of usual working hours).
- 4.9 **Section 5(2):** The power for the doctor or approved clinician in charge of the patient's treatment (whether or not for mental disorder) to detain a hospital in-patient for up to 72 hours to allow time to make the applications necessary to detain them under the Act in the normal way. These are often referred to as 'holding powers', but the Act itself does not use that term.
- 4.10 **Section 12 Approved (S12) Doctors:** Section 12 of the Mental Health Act allows the Secretary of State to approve doctors for the purposes of the Act as having special experience in the diagnosis or treatment of mental disorder. Some medical recommendations and medical evidence to the courts under the Act can only be made by a doctor who is approved under Section 12. All doctors who are ACs are automatically treated as approved under Section 12.

5 ALLOCATION OF A RESPONSIBLE CLINICIAN

5.1 Detention in hospital

- 5.2 In most cases the appropriate AC to act as the patient's RC will be the consultant psychiatrist for the ward on which the patient is detained under the MHA. All Trust mental health inpatient units must have clear arrangements in place for consultant psychiatrist provision, consistent with individual job descriptions and job plans for all relevant substantive medical staff.

- 5.3 Where the consultant psychiatrist for the ward is not an AC (which may occur in the case of inpatient wards covered by temporary / locum consultants) the Associate Medical Director will allocate the most appropriate clinician to act as the patient's RC. Where this occurs the allocated RC will assume overall responsibility for the patient's clinical care.
- 5.4 Where there is only one substantive consultant for an in-patient ward then that consultant will be initially allocated as the RC when a detained patient is admitted. In wards where there is more than one consultant then initial RC allocation will be determined by a local procedure. The default procedure is for the initial allocation to be based on the GP surgery at which the patient is registered. A rota based system is in place for RC allocation for patients who are not registered with any GP and / or are resident / registered outside the usual catchment population of the ward. Patients under the care of subspecialty consultants will generally be initially allocated an RC within that subspecialty (for example patients under the Learning Disability Service admitted to a ward for adults of working age).
- 5.5 Patients under the age of 18 are always allocated to an RC who is a CAMHS specialist. Those responsible for the care of children and young people in hospital must be familiar with relevant legislation, including the MHA (1983), the Children Acts (1989 and 2004), the Mental Capacity Act (2005), the Family Law Reform Act (1969), the Human Rights Act (1998) and the United Nations Convention on the Rights of the Child, as well as relevant case law, common law principles and relevant codes of practice.
- 5.6 In usual working hours the nominated deputy for Section 5(2) is the junior doctor who is directly supervised by the RC. Where there is more than one junior doctor in a consultant medical team the nominated deputy for a particular patient must be explicitly allocated and the arrangement made clear to the ward manager. This role cannot be undertaken by doctors who are at Foundation 1 Level (i.e. prior to full registration as medical practitioners) and can only be undertaken by doctors who are competent to undertake the role. The Trust has induction and training procedures in place alongside arrangements for clinical supervision to support the nominated deputy role.
- 5.7 There can only be one nominated deputy for a patient at one time but in their absence (for example on days when they are not working or out of office hours) the role is transferred to the duty doctor for the ward as specified by the relevant local rota. Application of Section 5(2) by the nominated deputy must be discussed with the RC or with another AC. RCs must therefore ensure that they are contactable by nominated deputies or otherwise make arrangements for an alternative AC to offer supervision.
- 5.8 After initial allocation to an RC there may be circumstances in which the patient's particular needs are best met by an alternative RC, for example a non-medical AC or an AC from a different specialty. RCs must continue to consider whether the needs of the patient have changed over time and therefore whether an alternative RC is now more appropriate. This is a clinical decision and will be determined as part of the usual multi-disciplinary care planning process.

- 5.9 In some cases the patient's changing needs will result in transfer to another ward and a new RC being allocated (for example transfer from a general adult psychiatry to a specialist psychiatric rehabilitation ward).
- 5.10 **Community Treatment Orders**
- 5.11 In most cases the appropriate RC for a patient who is subject to a Community Treatment Order will be the Consultant Psychiatrist for the Community Team who will be providing care for the patient once discharged from hospital. All such teams have clear arrangements in place for consultant psychiatrist provision based on registered GP practice and subspecialty.
- 5.12 If there is more than one AC who could fulfil the RC role after discharge then the in-patient RC who is initiating the CTO application should liaise with those ACs in the community to establish who will take on the RC role. RC allocation must always be established prior to completion of the CTO application.
- 5.13 There may be circumstances in which it becomes clear that the patient's particular needs are best met by an alternative RC, and if so the procedures and responsibilities are the same as those set out in 5.4 above.
- 5.14 **Cover arrangements when the RC is not available**
- 5.15 For planned leave (including annual and study leave) the RC is responsible for making arrangements with a suitably qualified AC to act as RC in their absence. There are established local arrangements in place between consultant psychiatrists to enable this. If the RC is unable to make such arrangements they must approach their line manager (the Associate Medical Director) to resolve the matter.
- 5.16 For unplanned leave (including sick leave) and vacancies of substantive medical staff the Associate Medical Director for the particular service is responsible for arranging cover from an appropriately qualified AC. This includes brief as well as more prolonged periods of sick leave.
- 5.17 **Part time medical staff**
- 5.18 The job description and job plan for part time medical staff who act as ACs must include arrangements for RC cover on days that they do not routinely work.
- 5.19 **Out of hours cover**
- 5.20 The Trust has established out of hours on call procedures for medical staff. The procedural document is available on the intranet.
- 5.21 There are two separate senior medical out of hours on call rotas that provide RC cover. One is the RC / S12 rota, which provides out of hours senior medical cover for adults and older people (including those with people with a learning disability). The second rota is comprised of CAMHS consultants, and provides senior medical input into those under the age of 18 years. The RC / S12 rota sometimes also includes a senior (advanced) trainee working under the supervision of the AC but the trainee is excluded

from undertaking RC functions (for example, authorising S17 leave or MHA consent to treatment procedures). Advanced trainees do undertake S12 work if they are approved to do so.

5.22 The nominated deputy for Section 5(2) is the junior doctor on the on call rota for the relevant ward (this does not include doctors who are at Foundation 1 Level prior to full registration as medical practitioners). Application of Section 5(2) by the nominated deputy must be discussed with the RC / S12 or CAMHS consultant.

5.23 The current out of hours on call rotas for medical staff are available and on the Trust intranet. Doctors on the out of hours rota have a responsibility to arrange swaps and notify these as set out in Trust procedures to ensure consistent RC availability. They also have a duty to be contactable according to Trust standards. However, there are procedures in place in the event of the RC being non-contactable or otherwise unavailable at short notice. This is described in more detail in the procedural document itself.

5.24 **Change of Responsible Clinician**

5.25 The needs of patients may change over time of therefore the appropriateness of the allocated RC should be kept under review. This includes identifying and planning transfer to another RC as the patient progresses between treatment settings, for example from hospital to community. The current RC should take the lead in this process.

5.26 Successive RCs need to be identified in good time to enable transfer to take place without delay. The existing RC is responsible for overseeing the patient's progress through the system. Change of RC is a clinical decision and should therefore be considered and agreed within the Care Programme Approach with involvement of the patient (and carers where relevant). Notification of change of RC should be sent to the MHA Administrator using the appropriate form (Appendix A).

5.27 When a CTO is being considered the existing RC must liaise with their successor and agree the details of the order including the conditions as well as other aspects of the care plan.

5.28 RCs can ask the Associate Medical Director to assist in this process if necessary, for example if there are unresolved differences of opinion, there is a need to seek a second opinion or there are practical difficulties in arranging allocation to the most appropriate RC.

5.29 If the patient requests a change of RC their reasons should be established to inform an appropriate response. In considering such a change it is also important to take account of the need for continuity, continuing engagement with, and knowledge of, the patient. The RC should refer to 'Dealing with a patient's request to change their mental healthcare or social care professional policy', which is available as a Clinical Policy on the Trust public website.

5.30 In some circumstances the RC may not be appropriately qualified to be in charge of a subsidiary treatment (for example medication where the RC is not qualified to prescribe). In these situations the RC can maintain their overarching responsibility for the patient's case, but another professional will take responsibility for the subsidiary treatment and for keeping the RC informed about it. Guidance is required locally on the procedures to follow, including when to seek a second opinion, if there are unresolved differences of opinion.

5.31 Recall of patient under a Community Treatment Order

5.32 Where a patient who is subject to Supervised Community Treatment is recalled to hospital then the RC role will routinely be transferred to the consultant psychiatrist for the ward to which the patient is admitted (for the recall period of up to 72 hours). However in some circumstances (e.g. where recall is for the specific purpose of compulsory treatment) it may be more appropriate for the existing community RC to keep the overall responsibility for the patient's care and treatment; this exception can be agreed between the two RCs with notification to the MHA Administrator (Appendix A).

5.33 Patients transferred to general hospital

5.34 An existing detained patient who is transferred from a Trust in-patient ward to a district general hospital in Somerset (i.e. to Yeovil District Hospital (YDH) or Musgrove Park Hospital (MPH)) should retain their existing RC whenever possible. This applies regardless of whether the detention is transferred to the general hospital under Section 19 or the patient is granted Section 17 leave from the Trust in-patient ward to attend the general hospital.

5.35 However, if the transfer is for more than 72 hours and the general hospital is not in the same town as the Trust in-patient ward then for adults of working age and older people the RC role should routinely be transferred according to the procedures described in 5.3 above to a consultant in the local Trust in-patient ward for the relevant specialty (with the exception of patients transferring from Broadway Park (Wessex House, Ash Ward and Willow Ward) and patients detained under Section 37 / 41 who will generally retain their existing RC).

5.36 Transfers to district general hospitals outside of Somerset (i.e. to hospitals other than YDH or MPH) should implement their usual local systems for RC allocation at the point of transfer.

5.37 Patients admitted to a general hospital under the Mental Health Act

5.38 All patients detained and admitted direct to a district general hospital in Somerset (i.e. to YDH or MPH), or who are detained once admitted to the general hospital, require allocation to an RC. Initial allocation will follow the procedures described in Section 5.3: to a consultant in the local Trust in-patient ward for the relevant specialty. The exception to this general rule is

CAMHS where initial allocation is to the CAMHS community consultant for the area in which the general hospital is located.

- 5.39 There may be some instances where an alternative RC may be more appropriate. This is a clinical decision will be determined as part of the usual multi-disciplinary care planning process. This might include patients detained to a general hospital who are already under the care of another AC and where there are advantages in continuity of care in retaining their existing consultant.

6. LIABILITY / INDEMNITY

- 6.1 The Trust holds vicarious liability for the actions performed by all of its employees where this forms part of their duties (during the care / treatment of NHS patients) for which they have been trained and authorised by their Trust to undertake. While ACs are professionally accountable for their own practice decisions, employers remain vicariously liable for the actions and decisions of their staff.
- 6.2 Authority for ACs to practise is as described in this policy, and via inclusion on the National AC register.

7. TRAINING REQUIREMENTS

- 7.1 The Trust will work towards all staff being appropriately trained in line with the organisation's Staff Training Matrix (training needs analysis). All training documents referred to in this policy are accessible to staff within the Learning and Development Section of the Trust Intranet.
- 7.2 ACs are responsible for maintaining their approval, including undertaking required refresher training and applying for re-approval in a timely manner in order to continue to lawfully undertake the RC role. ACs should include this training in their Continuing Professional Development plan as agreed in their peer groups.
- 7.3 The Trust supports doctors in attending AC and Section 12 refresher training through study leave arrangements.

8. EQUALITY IMPACT ASSESSMENT

- 8.1 All relevant persons are required to comply with this document and must demonstrate sensitivity and competence in relation to the nine protected characteristics as defined by the Equality Act 2010. In addition, the Trust has identified Learning Disabilities as an additional tenth protected characteristic. If you, or any other groups, believe you are disadvantaged by anything contained in this document please contact the Equality and Diversity Lead who will then actively respond to the enquiry.

9. MONITORING COMPLIANCE AND EFFECTIVENESS

9.1 Monitoring arrangements for compliance and effectiveness

- The policy will be regularly reviewed and monitored by the Mental Health Legislation Group
- The Mental Health Legislation Group will report annually to the Regulation Governance Group.

9.2 Process for reviewing results and ensuring improvements in performance occur.

Any audit results will be presented to the Mental Health Legislation Group for consideration, identifying good practice, any shortfalls, action points and lessons learnt. This Group will be responsible for ensuring improvements, where necessary, are implemented.

10. COUNTER FRAUD

10.1 The Trust is committed to the NHS Protect Counter Fraud Policy – to reduce fraud in the NHS to a minimum, keep it at that level and put funds stolen by fraud back into patient care. Therefore, consideration has been given to the inclusion of guidance with regard to the potential for fraud and corruption to occur and what action should be taken in such circumstances during the development of this procedural document.

11. RELEVANT CARE QUALITY COMMISSION (CQC) REGISTRATION STANDARDS

11.1 Under the **Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (Part 3)**, the fundamental standards which inform this procedural document, are set out in the following regulations:

Regulation 9:	Person-centred care
Regulation 10:	Dignity and respect
Regulation 11:	Need for consent
Regulation 12:	Safe care and treatment
Regulation 13:	Safeguarding service users from abuse and improper treatment
Regulation 16:	Receiving and acting on complaints
Regulation 18:	Staffing
Regulation 19:	Fit and proper persons employed
Regulation 20:	Duty of candour
Regulation 20A:	Requirement as to display of performance assessments.

11.2 Under the **CQC (Registration) Regulations 2009 (Part 4)** the requirements which inform this procedural document are set out in the following regulations:

Regulation 16:	Notification of death of service user
Regulation 17:	Notification of death or unauthorised absence of a service user who is detained or liable to be detained under the Mental Health Act 1983
Regulation 18:	Notification of other incidents

11.3 Detailed guidance on meeting the requirements can be found at <http://www.cqc.org.uk/sites/default/files/20150311%20Guidance%20for%20>

[providers%20on%20meeting%20the%20regulations%20FINAL%20FOR%20PUBLISHING.pdf](#)

12. REFERENCES, ACKNOWLEDGEMENTS AND ASSOCIATED DOCUMENTS

12.1 References

Mental Health Act 1983 (as amended by the MHA 2007)
Mental Health Act 1983 Approved Clinician (General) Directions 2008
Mental Health Act 2007 – New Roles (NIMHE 2008)
Mental Health Act Code of Practice (2015)

12.2 Cross references to other Trust Documents

Dealing with a Patient's Request to Change their Mental Healthcare or Social Care Professional Policy
Out of Hours On-Call Procedures for Medical Staff
Development & Management of Procedural Documents
Ethical Standards and Code of Conduct Policy
Learning Development and Mandatory Training Policy
Risk Management Policy and Procedure
Staff Training Matrix (Training Needs Analysis)
Training Prospectus
Untoward Event Reporting Policy and procedure
All current policies and procedures are accessible in the policy section of the public website (on the home page, click on 'Policies and Procedures'). Trust Guidance is accessible to staff on the Trust Intranet.

13. Appendices

Appendix A – Notification of Change of RC Form

CHANGE OF RESPONSIBILITY

For patient subject to the Mental Health Act 1983 (amended 2007)

Patient's Name(s)

RESPONSIBLE/ APPROVED CLINICIAN

I being the
Responsible/Approved Clinician for the patient named above, relinquish the
responsibility as from
(date of change)

Signed

I accept responsibility, as the
Responsible/Approved Clinician for the above named as from
.....
(date of change)

Signed

**Please return completed form to
MHA Administrators Office, Holly Court,
Summerlands Hospital Site, Preston road, Yeovil, Somerset,
Tel 01935 428420.**