

## NON-DOCTOR APPROVED CLINICIAN (AC) POLICY

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Relevant Staff Group/s:	All Non-doctor ACs (prospective and actual)

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## DOCUMENT CONTROL

<b>Reference Number</b> BJ/May/11/NDACP	<b>Version</b> 2	<b>Status</b> Final	<b>Author</b> MHA Coordination Lead
<b>Amendments:</b> Revised policy to acknowledge changes in the MHA Code of Practice(2015) .			
<b>Document objectives:</b> This document is intended to provide guidance for staff training to become ACs and those who are already approved			
<b>Intended recipients:</b> All non-doctor ACs and those in training			
<b>Committee/Group Consulted:</b> Mental Health Legislation Group			
<b>Monitoring arrangements and indicators:</b> The policy and appendices will be regularly reviewed and maintained by the Non-doctor AC monitoring and steering group. The Non-doctor AC monitoring and steering group will report annually to the Mental Health Legislation Group. The MHL group reports directly to the Regulation Governance Group.			
<b>Training/resource implications:</b> Non-doctor AC training places will be allocated according to operational requirements.			
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## **1. INTRODUCTION**

- 1.1 An amendment to the Mental Health Act 1983, contained in the Mental Health Act 2007, makes it possible for psychologists, nurses, social workers and occupational therapists to train as Approved Clinicians (ACs) able to take the role of Responsible Clinician (RC). This role had previously only been open to consultant psychiatrists as responsible medical officers (RMOs).
- 1.2 All patients subject to compulsion under the Act must have appointed an appropriate RC. Only a qualified AC may become the RC for a person subject to the Mental Health Act. Selection of the appropriate RC should be based on the individual needs of the patient. For example, where psychological therapies are central to the patient's treatment, it may be appropriate for a professional with particular expertise in this area to act as RC. Non-doctor ACs, as RCs, can perform most of the statutory tasks which, prior to the MHA '07 amendment, could only be performed by a doctor. It is also possible for a patient to have an RC who is not the AC in charge of a particular treatment. In that circumstance an AC may take responsibility for a particular treatment and would provide reports on progress to the RC.(see Code of Practice 36.10 in Appendix1)
- 1.3 The Secretary of State holds ultimate responsibility for the approval of ACs, and has delegated this function to various 'authorising bodies' around the country. Before granting an approval, the authorising body must first be satisfied that an individual meets the requirements outlined in the Mental Health Act 1983 Approved Clinician (General) Directions 2008 (see Appendix 2). For Somerset Partnership employees, applications for non-doctor approval are made to the South of England Approvals Panel (see Appendix 3) by way of the procedures detailed in this policy.
- 1.4 This document provides the Trust policy on the selection of individuals put forward for approval, their training and support while training. It also provides the Trust policy on re-approval of non-doctor ACs and the support they can expect while approved.

## **2. PURPOSE & SCOPE**

- 2.1 This policy supports the implementation of a strategic plan for the development of non-doctor ACs, which will result in:
- Improved patient care whilst maintaining patient safety
  - Increasing diversity of appropriate RCs
  - Full utilisation of the skills of health professionals
  - The promotion of a more flexible workforce
- 2.2 This policy relates to non-doctor ACs: their approval, re-approval and support.
- 2.3 The policy will ensure that practitioners are safe in their practice and up to date in their knowledge

### **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 Non-Doctor AC Monitoring and Steering Group will review and update the policy
- 3.4 Senior Managers Operational Group is responsible for agreeing and ratifying the policy and appendices.
- 3.5 Non-doctor ACs must be prepared to act as RC for some patients subject to compulsion under the Act. Selection of which patients will be a matter for discussion between managers, doctors and the non-doctor AC. Non-doctor ACs will be expected to act as RC in a limited number of instances, usually where the non-doctor AC's discipline is central to the patient's treatment.
- 3.6 All non-doctor ACs 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.
- 3.7 It is essential for all non-doctor ACs 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.
- 3.8 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.
- 3.9 Individual non-doctor ACs must understand and accept the higher level of clinical responsibility associated with the role. At all times non-doctor ACs must:
  - Adhere to and promote the highest standards of ethical conduct.
  - Ensure legal processes 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
  - Reflect on practices as an AC

### **4. EXPLANATIONS OF TERMS USED**

- 4.1 **AC.** Approved Clinician
- 4.2 **Non-Doctor AC.** A registered practitioner who has successfully completed post registration training in becoming an approved clinician, and has had the approval recorded by the Trust.

- 4.3 **RC.** Responsible Clinician. An AC who is in overall charge of a patient subject to some form of compulsion under the Act.

## **5 NON-DOCTOR AC SELECTION AND TRAINING PROCESSES**

- 5.1 Only professionally qualified staff - psychologists, nurses, social workers or occupational therapists – that are registered with their professional body and have acquired relevant experience in their discipline will be considered for training as an approved clinician.(See Appendix 2) Their professional head of service must support the application.
- 5.2 Staff should not view AC training as an automatic career progression. Selection of staff to train as ACs must fit with Trust priorities for service delivery.
- 5.3 Although the Trust may, from time to time, ask for expressions of interest in training for the AC role, an expression of interest does not guarantee the right to train to become an AC.
- 5.4 The Trust will ensure an appropriate amount of time is made available, away from normal duties, for the non-doctor AC trainee to complete their training. Currently this is 10 days spread over a period of up to 1 year, but experience has shown that this is not sufficient. The exact amount of time required will vary depending on the circumstances of each trainee, and will be negotiated and reviewed between the trainee and their line manager.
- 5.5 Current training requires the trainee to build an appropriate portfolio of experience and attend a 2-day taught element that, primarily, covers the legal aspects of the role. Trainees will be assigned a mentor who can advise on portfolio building, identify gaps in training and help the trainee translate their training and experience into the AC role. This will be coordinated by the MHA Coordination Lead.
- 5.6 Providing that the trainee AC's portfolio demonstrates an appropriate level of competence, and other required training has been completed, the Trust will supply the necessary references to support the application to the approval panel.
- 5.7 Currently, psychologists have the facility of the British Psychological Society (BPS) reviewing the trainee's (where the trainee is a psychologist) portfolio before it is submitted to the South of England Approvals Panel. This provides a useful indicator of whether the portfolio meets the required standard but the Trust will not be bound by any comments made by the BPS. Non-doctor ACs who are not psychologists will be required to ensure their portfolios contain the information required by the Panel and will not be supported by the Trust unless they contain the information. The MHA Coordination Lead and the trainee's mentor (if different) will agree when the portfolio is ready for submission. That agreement, however, is no guarantee of a successful application. The panel makes a completely independent decision.
- 5.8 All costs associated with the AC training will be borne by the Trust.
- 5.9 Non-doctor AC trainees must have completed the approval process before practising as an AC. The approval will last for 5 years.

## **6. ALLOCATION OF CASES**

- 6.1 Non-doctor ACs, once registered to practice as a RC, must be prepared to assume responsibility for patients either detained under the Act or subject to a Community Treatment Order or Guardianship Order. They should hold responsibility for no more than 3 cases, concurrently, at any time in their first year of approval.
- 6.2 Most cases they take responsibility for will be a matter for negotiation between the patient's current RC the care team and the non-doctor AC. Under Guardianship it is the Local Authority which appoints a RC, and ACs should negotiate with the Local Authority representative before accepting such an authorisation.
- 6.4 There are no statutory forms to record the identity of a patient's RC or AC in charge of treatment, and RiO does not yet contain a robust procedure for recording this either. The Trust has developed a form to record when the identity of RC/AC for a patient changes (See appendix 4). This should be completed by the existing RC/AC and the RC/AC accepting the handover of responsibility. The form should then be sent to the MHA administrators.
- 6.3 Once acting as RC, the non-doctor AC must make arrangements for RC cover when they are not working. When the RC is not available outside normal working hours (evenings, weekends and bank holidays), the duty AC will act as RC for the patient. During periods of sickness or other absence the AC providing cover will be the RC. If there is ever any uncertainty about the identity of a patient's RC, the medical director must arrange for the allocation of a RC as a matter of urgency.

## **7. SUPERVISION, SUPPORT AND REAPPROVAL**

- 7.1 All non-doctor ACs will be subject to the Trust Supervision policy.
- 7.2 The Mental Health Act Coordination Lead and mentor (see 5.6) will support the trainee non-doctor AC in their initial portfolio building.
- 7.3 Once approved, in addition to pre-existing management and clinical supervision arrangements, non-doctor ACs may be expected to attend bespoke supervision activities.
- 7.4 Non-doctor ACs must attend, at least annually, a peer supervision / review. The review panel will include a representative or representatives from the non-doctor AC monitoring and steering group.
- 7.5 During the 5 years of their approval, the non-doctor AC must keep a portfolio of their work and, towards the end of their approval period, attend refresher training. The portfolio will help support their application for re-approval at the end of their approval period.
- 7.6 Where the non-doctor AC achieves a satisfactory level of practice during their 5-year approval period, the non-doctor AC monitoring and steering group will support their application to the South of England Approvals Panel for re-approval.

7.7 Support in the performance of the AC role can be obtained via normal professional supervision arrangements and through the Mental Health Act Coordination Lead.

## **8. CONTINUING PROFESSIONAL DEVELOPMENT**

8.1 Non-doctor ACs who are psychologists must maintain CPD activities and complete annual CPD logs. Non-doctor ACs who are not psychologists must maintain their profession's CPD equivalent,

8.2 Non-compliance will result in removal of the name of the non-doctor AC from the Trust register.(see Appendix 2)

## **9. LIABILITY/INDEMNITY**

9.1 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 non-doctor ACs are professionally accountable for their own practice decisions, employers would remain vicariously liable for the actions and decisions of their staff.

9.2 Authority for Non-doctor ACs to practise is as described in this policy, and via inclusion on the Trust AC register.

## **10. TRAINING REQUIREMENTS**

10.1 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.

## **11. EQUALITY IMPACT ASSESSMENT**

11.1 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.

## **12. MONITORING COMPLIANCE AND EFFECTIVENESS**

### **12.1 Monitoring arrangements for compliance and effectiveness**

- The policy will be regularly reviewed and monitored by the Non-doctor AC monitoring and steering group.
- The Non-doctor AC monitoring and steering group will report annually to the Mental Health Legislation Group
- The Mental Health Legislation Group will report annually to the Regulation Governance Group.

12.2 **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.

**13. COUNTER FRAUD**

13.1 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.

**14. RELEVANT CARE QUALITY COMMISSION (CQC) REGISTRATION STANDARDS**

14.1 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.

14.2 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

14.3 Detailed guidance on meeting the requirements can be found at <http://www.cqc.org.uk/sites/default/files/20150311%20Guidance%20for%20providers%20on%20meeting%20the%20regulations%20FINAL%20FOR%20PUBLISHING.pdf>

## **15. REFERENCES, ACKNOWLEDGEMENTS AND ASSOCIATED DOCUMENTS**

### **15.1 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)

### **15.2 Cross references to other Trust Documents**

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 to all staff on the Trust intranet (on the home page, click on 'Policies and Procedures'). Trust Guidance is accessible to staff on the Trust Intranet (on the home page, click on Information, then Local Guidance).

## **16. Appendices**

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|------------|---|
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## 36 Allocating or changing a responsible clinician

### Why read this chapter?

36.1 This chapter deals with the identification of responsible clinicians for patients being assessed and treated under the Act, including on change of responsible clinician.

### Allocating a responsible clinician

36.2 The responsible clinician is the approved clinician who will have overall responsibility for the patient's case.

36.3 Hospital managers should have local protocols in place for allocating responsible clinicians 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 responsible clinician is the available approved clinician 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 responsible clinician is
- ensure that cover arrangements are in place when the responsible clinician is not available (eg during non-working hours, annual leave etc), and include a system for keeping the appropriateness of the responsible clinician under review.

36.4 To ensure that the most appropriate available approved clinician is allocated as the patient's responsible clinician, hospital managers should keep a register of approved clinicians to treat patients for whom they are responsible.

36.5 The selection of the appropriate responsible clinician should be based on the individual needs of the patient concerned. For example, where psychological therapies are central to the patient's treatment, it may be appropriate for a professional with particular expertise in this area to act as the responsible clinician.

36.6 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. (For further information please refer to chapter 19.)

36.7 Even if the patient's main treatment needs are not immediately clear, it will be necessary to allocate a responsible clinician promptly upon the patient's detention in hospital.

### Change of responsible clinician

36.8 As the needs of the patient may change over time, it is important that the appropriateness of the responsible clinician is kept under review throughout the care planning process. It may be appropriate for the patient's responsible clinician to change during a period of care and treatment, if such a change enables the needs of the patient to be met more effectively. If the patient requests a change 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 and continuing engagement with, and knowledge of, the patient.

36.9 Where a patient's treatment and rehabilitation require movement between different hospitals or to the community, successive responsible clinicians need to be identified in good time to enable movement to take place. The existing responsible clinician is responsible for overseeing the patient's progress through the system. If movement to another hospital is indicated, responsible clinicians should take the lead in identifying their successors, and hospital managers should respond promptly to requests to assist in this process.

36.10 There may be circumstances where the responsible clinician is qualified with respect to the patient's main assessment and treatment needs but is not appropriately qualified to be in charge of a subsidiary treatment needed by the patient (eg medication which the responsible clinician is not qualified to prescribe). In such situations, the responsible clinician will maintain their overarching responsibility for the patient's case, but another appropriately qualified professional will take responsibility for a specific treatment or intervention.

36.11 Where the person in charge of a particular treatment is not the patient's responsible clinician, the person in charge of the treatment should ensure that the responsible clinician is kept informed about the treatment and that treatment decisions are discussed with the responsible clinician in the context of the patient's overall case. Guidance should be available locally on the procedures to follow, including when to seek a second opinion, if there are unresolved differences of opinion.

## APPENDIX 2

### MENTAL HEALTH ACT 1983 INSTRUCTIONS WITH RESPECT TO THE EXERCISE OF APPROVAL FUNCTIONS 2014

The Secretary of State for Health, in exercise of the powers conferred by section 12ZA(5) of the Mental Health Act 1983, gives the following Instructions:

#### PART 1

Application, etc.

##### **Application, commencement and interpretation**

1.—(1) These Instructions apply to a body with whom the Secretary of State has made an agreement under section 12ZA of the Mental Health Act 1983.

(2) These Instructions apply in relation to England.

(3) These Instructions come into force on 17th February 2014.

(4) The Mental Health Act 1983 Instructions with respect to the Exercise of Approval Functions 2013, which were signed on 27th March 2013 and effective from 1st April 2013, are revoked from 17th February 2014.

(5) In these Instructions —

“the 1983 Act” means the Mental Health Act 1983;

“approval functions” means the function of approving a registered medical practitioner under section 12(2) of the 1983 Act and the function of approving a person to act as an approved clinician under section 145(1) of the 1983 Act;

“approve” and “approval” includes “re-approve” and “re-approval”;

“approved clinician” has the meaning given by section 145(1) of the 1983 Act;

“approved mental health professional” has the meaning given by section 114 of the 1983 Act(c);

“approving body” means a body that is or becomes responsible for the approval of a person to act as a section 12 doctor or an approved clinician (as the case may be) in relation to an area specified in an agreement made under section 12ZA or 12ZB of the 1983 Act;

“clinical director” means a person the approving body considers to be a clinical director or a person the approving body considers to be equivalent to a clinical director;

“consultant” means a person who has been appointed to a medical consultant post with a health service provider;

“forensic physician” means a person the approving body considers is a forensic physician or a person the approving body considers is a forensic medical examiner;

“induction training course” means a course approved by an approving body for the purpose of the induction of a prospective section 12 doctor or an approved clinician;

“medical director” means a person the approving body considers to be a medical director or a person the approving body considers to be equivalent to a medical director;

“medical treatment” has the meaning given by section 145(1) and (4) of the 1983 Act.

“mental disorder” has the meaning given by section 1(2) of the 1983 Act(b);

“performers list” means a list of medical practitioners prepared, maintained and published under regulations made under section 91 of the National Health Service Act 2006(c) or section 28 of the National Health Service (Wales) Act 2006(d);

“period of approval” means the period of time for which the approval is granted in accordance with instruction 6;

“professional requirements” means the requirements set out in the relevant Part of Schedule 1 to these Instructions;

“refresher training course” means a course approved by an approving body for the purpose of refreshing the skills and competencies of a person who has previously been approved to act as a section 12 doctor or an approved clinician;

“relevant competencies” means the skills and competencies set out in Schedule 2 to these Instructions;

“responsible clinician” has the meaning given by section 34(1) of the 1983 Act(e);

“second opinion appointed doctor” means a registered medical practitioner appointed for the purposes of Part 4 of the 1983 Act;

“section 12 doctor” means a person who is approved under section 12(2) of the 1983 Act for the purposes of section 12 of that Act;

“specialist register” means the specialist register kept by the General Medical Council under section 34D of the Medical Act 1983(f);

“specialist in psychiatry” means a person kept on the specialist register as a—

(a) a specialist in psychiatry or

(b) specialist in an area that the approving body considers to be equivalent to psychiatry; and

“treatment” means medical treatment for mental disorder.

## PART 2

Approvals: General

### Function of approval

**2.** The Secretary of State instructs the approving body to exercise the approval functions in accordance with these Instructions and any agreement made under section 12ZA or 12ZB of the 1983 Act which is in force between the Secretary of State and the approving body.

**Approval under section 12(2) of the 1983 Act (*omitted from this appendix, because it is not relevant to approval of non-doctor approved clinicians*)**

(...)

### 4 Approval to act as an approved clinician

**5.** An approving body must only approve a person to act as an approved clinician in England (“the applicant”) where it is satisfied that the applicant—

(a) fulfils at least one of the professional requirements in Part 2 of Schedule 1;

(b) has the relevant competencies;

(c) has an enhanced criminal record certificate under section 113B of the Police Act 1997 including suitability information relating to children under section 113BA and vulnerable adults under section 113BB of that Act unless the applicant is:

(i) a person who is, or is a partner in a partnership that is, registered under Chapter 2 of the Health and Social Care Act 2008; or  
(ii) currently employed by a person so registered;

(d) has—

(i) completed a course for the initial training of approved clinicians within the two year period immediately preceding the date of the application; or

(ii) been approved to act as an approved clinician in England within the five year period immediately preceding the date of the application and has completed a relevant refresher training course within the two year period immediately preceding the date on which the person's approval expires (if applicable) or the approving body considers the person's application, whichever is later;

(e) has provided evidence which the approving body considers shows satisfactory participation in continuing professional development;

(f) has provided an up to date curriculum vitae and the contact details of two referees who meet the following requirements and can provide references to the satisfaction of the approving body—

(i) each referee must have known the applicant for a period of time that the approving body considers to be reasonable and be able to provide a reference concerning the applicant's ability to understand and implement the 1983 Act;

(ii) one of the referees must have worked with the applicant in England or Wales for a period of time which the approving body considers reasonable within the twelve month period immediately preceding the date of the application;

(iii) one of the referees must be the applicant's current or most recent medical director or clinical director, but where an applicant is on a training programme recognised by the Royal College of Psychiatrists, the referee may be the programme director or a person the approving body considers to be equivalent to a programme director;

(iv) one of the referees must be an approved clinician and the other referee must be one of the following— (aa) an approved clinician;

- (bb) a consultant psychiatrist who is a section 12 doctor;
- (cc) an approved mental health professional with whom the applicant has worked for a period of time which the approving body considers reasonable within the twelve month period preceding the date of application; or
- (dd) the applicant's current or most recent clinical director or medical director or, where the applicant is in the last year of a training programme recognised by the Royal College of Psychiatrists, their programme director.

### **Period of approval**

**6.—**(1) An approving body may approve a person to act as—

- (a) a section 12 doctor for a period of up to five years; and
- (b) an approved clinician for five years; commencing from the date of the approval.

(2) Subject to instructions 7, 8 and 9, the approval, including the period of approval which is specified by the approving body, is not affected if another approving body becomes responsible for the approved person's approval as a result of the approved person taking up employment in another area.

### **Conditions of approval**

**7.—**(1) An approval granted by an approving body must be subject to the following conditions—

(a) the person must immediately cease to act as a section 12 doctor or an approved clinician (as the case may be) and immediately notify the approving body if—

(i) the person no longer meets any of the requirements set out in instruction 3 or 5 (as the case may be); or

(ii) the person is suspended from any of the registers or lists referred to in the professional requirements;

(b) the person must notify the approving body immediately if the person becomes subject to fitness to practice proceedings;

(c) the person must notify the approving body as soon as practicable of any change in the person's home or work address, telephone numbers, email address or other contact information;

(d) the person must inform the approving body of any employment move to an area for which a different approving body is responsible which is anticipated to be longer than six months, at least one month before such a move;

(e) the person must cease to act as a section 12 doctor or an approved clinician if the person's approval is suspended or has lapsed;

(f) the person must comply with the Data Protection Act 1998;

(g) if the person is in specialist training and is to be employed as a consultant psychiatrist before they have finished their specialist training, the person must provide evidence to the approving body within 12 months of the date of the approval that they have been included on the specialist register as a specialist in psychiatry;

(h) if the person is in specialist training and is not to be employed in a consultant psychiatrist post before they have finished their specialist training, the approval must only be effective from the date on which the person notifies the approving body that the person has been included on the specialist register as a specialist in psychiatry; and

(i) such other conditions that the approving body considers are reasonable and appropriate.

(2) An approving body may vary an existing condition or impose a new condition under instruction 7(1)(i) in circumstances including but not limited to where the approving body is considering suspending, or has suspended, a person's approval under instruction 8.

(3) Where an approving body (A) has granted an approval to a person for whom another approving body (B) then becomes responsible, B may vary or remove any conditions imposed by A under instruction 7(1)(g), (h) or (i).

(4) An approving body must take reasonable steps to confirm whether or not a person has met the conditions to which the person's approval is subject.

### **Suspension of approval**

**8.—**(1) If, at any time after a person is approved as a section 12 doctor or as an approved clinician, the body responsible for the person's professional registration or listing suspends that

registration or listing, the approving body must suspend that person's approval for as long as the registration or listing is suspended.

(2) Where the approving body is notified that the suspension of the registration or listing has ended, the approving body must end the suspension of approval unless paragraph (3) applies.

(3) The approving body may suspend a person's approval for a period which is reasonably necessary for the approving body to determine whether to end the suspension under paragraph (1) or to end the approval under instruction 9, if the approving body is not satisfied that the person—

- (a) meets any condition to which that person's approval is subject; or
- (b) in the case of an approved clinician, has the relevant competencies.

(4) Before an approving body suspends a person's approval under paragraph (3), it must—

- (a) give the person its reasons for considering suspending the approval;
- (b) give the person a period of time which the approving body considers reasonable to make representations in respect of the proposed action; and
- (c) consider representations submitted by the person to the approving body.

(5) When the approving body suspends a person's approval, the approving body must inform the person and the body responsible for regulating the person's professional registration or listing of its reasons for the decision.

(6) If a person's approval is suspended, that person may not act in that capacity unless and until the suspension of approval is ended by the approving body.

(7) The period of a person's approval continues to run during any period during which the approval is suspended.

(8) Where the suspension of approval has ended, the approval is to continue to run for any unexpired period of approval, unless the approving body ends it earlier in accordance with instruction 9.

### **End of approval**

**9.**—(1) Except where paragraph (2) applies, the approval of a person to act as a section 12 doctor or an approved clinician must end at the end of the day on which the person's period of approval expires.

(2) The approving body must end the approval before the expiry of the period of approval—

- (a) in accordance with a request in writing by that person; or
- (b) except where paragraph (1) of instruction 8 applies, if it is not satisfied that the person—
  - (i) fulfils at least one of the professional requirements;
  - (ii) meets any condition attached to that person's approval; or
  - (iii) in the case of an approved clinician, has the relevant competencies.

(3) Before an approving body ends a person's approval under paragraph (2)(b), the approving body must—

- (a) give the person its reasons for considering ending the approval;
- (b) give the person a period of time which the approving body considers reasonable to make representations in respect of the proposed action; and
- (c) consider representations submitted by the person to the approving body.

(4) When the approving body ends the person's approval under paragraph (2)(b), the approving body must inform the person of its reasons for the decision and inform the body responsible for regulating the person's professional registration or listing.

### **Records**

**10.**—(1) The approving body must keep a record in respect of each person it approves as a section 12 doctor or an approved clinician and the record must include—

- (a) the person's application for approval;
- (b) the date of approval;

(c) the conditions attached to the person's approval, any variations to those conditions, and any evidence provided to the approving body that the person has met or continues to meet such conditions;

(d) details of any period of suspension of approval under instruction 8;

(e) details of the completion of any training referred to in instruction 3(c)(i) or 5(d)(i);

(f) details of any previous approvals referred to in instruction 3(c)(ii) or 5(d)(ii); and

(g) the date of the end of approval and, if applicable, the reason for ending the approval.

(2) The record referred to in paragraph (1) must be retained by the approving body for a period of six years beginning on the day on which the person's latest approval ended.

Signed by authority of the Secretary of State for Health

*Anne McDonald*

Address A Member of the Senior Civil Service

Date 11<sup>th</sup> February 2014 Department of Health

## SCHEDULE 1 Instruction 1(5)

### Professional Requirements

#### PART 1

Section 12 Doctors (*omitted from this appendix, because it is not relevant to approval of non-doctor approved clinicians*)

(...)

#### PART 2

##### Approved Clinicians

3. The professional requirements in relation to an approved clinician are that the person is—

(a) a registered medical practitioner;

(b) a practitioner psychologist listed in the register maintained by the Health and Care Professions Council;

(c) a first level nurse, registered in Sub-Part 1 of the Nurses' Part of the register maintained under article 5 of the Nursing and Midwifery Order 2001, with the inclusion of an entry indicating their field of practice is mental health or learning disabilities nursing;

(d) an occupational therapist listed in the register maintained by the Health and Care Professions Council; or

(e) a social worker listed in the register maintained by the Health and Care Professions Council.

## SCHEDULE 2 Instruction 1(5)

### Relevant competencies: approved clinicians

#### Relevant competencies for approved clinicians

1. A person must have the skills and competencies set out in paragraphs 2 to 9 below.

#### The role of the approved clinician and responsible clinician

2. A comprehensive understanding of the role, legal responsibilities and key functions of the approved clinician and the responsible clinician.

#### Legal and policy framework

3.—(1) Applied knowledge of— (a) mental health legislation, related codes of practice and national and local policy and guidance;

(b) other relevant legislation, codes of practice and national and local policy guidance, in particular, relevant parts of the Human Rights Act 1998, the Mental Capacity Act 2005, the Children Act 1989 and the Children Act 2004, and

(c) relevant guidance issued by the National Institute for Health and Clinical Excellence (NICE).

(2) In the above paragraph "relevant" means relevant to the decisions likely to be taken by an approved clinician or responsible clinician.

## **Assessment**

### **4.—(1) Ability to—**

- (a) identify the presence of mental disorder;
  - (b) identify the severity of the disorder; and
  - (c) determine whether the disorder is of a kind or degree warranting compulsory detention.
- (2) Ability to assess all levels of clinical risk, including risks to the safety of the patient and others within an evidence-based framework for risk assessment and management.
- (3) Ability to undertake mental health assessments incorporating biological, psychological, cultural and social perspectives.

## **Treatment**

### **5.—(1) Understanding of—**

- (a) mental health related treatments, which include physical, psychological and social interventions;
  - (b) different evidence based treatment approaches and their applicability to different patients; and
  - (c) the range of appropriate treatments and treatment settings which can be provided in the least restrictive environment and will deliver the necessary health and social outcomes.
- (2) High level of skill in determining whether a patient has capacity to consent to treatment.
- (3) Ability to formulate, review appropriately and lead on treatment in relation to which the clinician is appropriately qualified in the context of a multi-disciplinary team.
- (4) Ability to communicate clearly the aims of the treatment to patients, carers and the team.

## **Care Planning**

**6.** Ability to manage and develop care plans which combine health (including measures relating to physical and psychological health and medication), social services (including housing and employment) and other resources, preferably within the context of the Care Programme Approach.

## **Leadership and Multi-Disciplinary Team Working**

### **7.—(1) Ability to effectively lead a multi-disciplinary team.**

- (2) Ability to assimilate the (potentially diverse) views and opinions of other professionals, patients and carers, whilst maintaining an independent view.
- (3) Ability to manage and take responsibility for making decisions in complex cases without the need to refer to supervision in each individual case.
- (4) Understanding and recognition of the limits of the person's own skills and an ability to seek professional views from others to inform a decision, for example through peer review and appraisal.

## **Equality and Cultural Diversity**

### **8.—(1) Up-to-date knowledge and understanding of relevant equality issues.**

- (2) Ability to identify, challenge, and where possible and appropriate redress discrimination and inequality in relation to approved clinician practice.
- (3) Understanding of the need to sensitively and actively promote equality and diversity.
- (4) Understanding of how cultural factors and personal values can affect practitioners' judgements and decisions concerning the application of mental health legislation and policy.

## **Communication**

### **9.—(1) Ability to communicate effectively with professionals, patients, carers and others, particularly in relation to decisions taken and the underlying reasons for these.**

- (2) Ability to keep appropriate records and an awareness of the legal requirements in relation to record keeping, including the processing of all personal data or sensitive personal data (as both terms are defined in the Data Protection Act 1998) in accordance with that Act.

(3) Understanding of, and ability to manage, the competing requirements of confidentiality and effective information sharing, to the benefit of the patient and other stakeholders.

(4) Ability to compile and complete statutory documentation and to provide written reports as required of an approved clinician.

(5) Ability to present evidence to courts and tribunals.

### List of 'Approving Bodies' (Details correct as of May 2015, but are subject to change)

Lead for National Database Claire Phipps Department of Health, Quarry House, Leeds

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Ceal (pronounced Jelal) Akbulut - Section 12(2) Administrator [ceal.akbulut@nhs.net](mailto:ceal.akbulut@nhs.net)

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#### MIDLANDS & EAST

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#### NORTH OF ENGLAND

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**Change of RC/AC Notification**

**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.**