



Public – To be published on the Trust external website

Independent mental health advocacy (IMHA)

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1 Introduction

This procedure is required for the Trust to ensure staff are informed regarding Independent Mental Health Advocacy (IMHA) services and can support patients with accessing advocacy services.

This procedure supports the Trust in the delivery of Our Journey to Change and our ambition to create safe and personalised care that improves the lives of people with mental health needs, a learning disability or autism.

It helps us deliver our strategic goals as follows:

- This procedure supports the Trust to co-create a great experience for all patients, carers, and families from its diverse population by ensuring that staff are able to support patients in accessing advocacy services and meeting the Trust obligations in supporting the IMHA.

2 Purpose

Following this procedure will help the Trust to inform practitioners:

- Which patients are eligible for an IMHA.
- How those eligible patients should be informed of the IMHA availability.
- The role of the IMHA.
- The rights of the IMHA in fulfilling that role.

Following this procedure will help the Trust meet its obligations to:

- Ensure that information about the IMHA service is communicated consistently.
- Ensure that staff are aware of the IMHA role.
- Ensure that staff assist the IMHA wherever possible.

3 Who this procedure applies to

This procedure applies to all staff who work with patients who are subject to the Mental Health Act who are eligible for IMHA services.

4 Related documents

- [Code of Practice Mental Health Act 1983, TSO, 2015](#)

- [Mental Capacity Act Policy](#)
- [Section 132/132A procedure](#)
- [Independent Mental Health Advocates, supplementary guidance on access to patient records under section 130B MHA 1983](#)
- [Sharing information and confidentiality policy](#)
- [Requests for information: how to make them and what we do](#)

5 Which patients are eligible for an IMHA?



IMHA services do not replace any other advocacy and support services that are available to patients. They are intended to operate in conjunction with those services.

Patients are eligible for support from an IMHA if they are:

- Detained under the MHA (including patients on leave of absence), excluding sections 5(4), 5(2), 4, 135 and 136.
- Conditionally discharged restricted patients
- Subject to guardianship
- Community Treatment Order (CTO) patients

Informal patients are eligible if they are:

- Being considered for a treatment regulated by section 57 (neurosurgery for mental disorder or the surgical implantation of hormones to suppress the male sex drive)
- Under 18 and being considered for electro convulsive treatment (ECT)



Informal patients remain eligible until treatment is complete, or it is decided they will not be given treatment for the time being.

5.1 What does an IMHA do?

Under the MHA, the role of the IMHA must include helping patients to obtain information about and understand:

- Their rights under the MHA.
- The rights which other people (e.g., nearest relatives) have in relation to them under the MHA.

- The particular parts of the MHA which apply to them (e.g., The basis on which they are detained)
- Any conditions or restrictions to which they are subject.
- Any medical treatment they are receiving or might be given.
- The legal authority for providing that treatment.
- The IMHA role includes helping patients exercise their rights which may include representing them and speaking on their behalf.

IMHAs may also support patients in a range of other ways to ensure they can participate in the decisions that are made about their care and treatment.

To fulfil this role, IMHAs should:

- Have access to wards and units.
- Be able to meet privately with the patients they are helping.
- Be able to attend meetings between patients and the professionals involved in their care and treatment when asked to do so by patients.

5.2 What rights does an IMHA have?

5.2.1 Access to the patient



An IMHA has the right to meet the patient in private.
This right is subject to the usual considerations around risk assessment and management and the safety of both the IMHA and the patient.

5.2.2 Access to professionals



IMHAs have the right to visit and speak to any person who is currently professionally involved with a patient's medical treatment, providing it is for the purpose of supporting that patient in their capacity as an IMHA.



The normal rules of patient confidentiality apply to conversations with IMHAs, even when the conversation is at the patient's request.

5.2.3 Access to records

Section 130B gives IMHAs the right to access records relating to a patient's detention or treatment or to any aftercare provided under section 117.

[See section 8](#) - Standard operating procedure for IMHA access to health records for further information.

The records may be held in one or more of the following forms:

- Electronic Patient Records
- MHA Documentation
- Paper Files

IMHAs have a right of access to patients' records in defined circumstances:

Patients with capacity	<p>Where the patient consents:</p> <ul style="list-style-type: none"> • The IMHA can see any record relating to the patient's current detention or treatment. • This includes records held electronically
Patients who lack capacity	<p>Where the holder of the records believes it to be in the best interests of the patient:</p> <ul style="list-style-type: none"> • The IMHA can see any records relating to the patient's current detention or treatment. • This includes records held electronically



Records must not be disclosed if disclosure would conflict with a decision made on the patient's behalf by the patient's attorney, deputy, or the Court of Protection.

6 How does a patient get the support of an IMHA?

The support of an IMHA can be sought:

- By the qualifying patient at any time
- When a request is made by:
 - The nearest relative
 - An Approved Mental Health Professional (AMHP)
 - The Responsible Clinicians (RC)

Whilst Section 130B sets out that an IMHA shall comply with any reasonable request made to him by any of the above, requests/referrals are usually made by nursing staff and IMHA Services accept requests/referrals from nursing staff.

6.1 Opt Out Access

TEWV operates an ‘opt out’ process for access to the IMHA service. **All** eligible patients will be informed at the point where they are informed of their rights under section 132, both initially and on subsequent occasions, that they **will** be referred to the IMHA service **unless** they specifically **decline** the help available and **object** to a referral being made. This applies whether the patient has capacity or lacks capacity.

This **must** be recorded on the Rights Form on admission and on subsequent reviews. An entry detailing the process and the outcome, i.e., accepted or declined, and actions taken, i.e., referral made, **must** be made in the electronic patient records. If a referral form is used, a copy of this **must** be retained within the care record, if not, the referral details **must** be captured within the electronic patient records.

7 Which IMHA service?

IMHA services are commissioned by Local Social Services Authorities (LSSAs).

- Current contact details for IMHA providers can be found on the Trust website.
- Follow the table below to identify the correct LSSA

Qualifying Patient	Responsible LSSA
Patient detained under the MHA.	LSSA for the area where the hospital is located.
Patient subject to guardianship under the MHA.	LSSA for the area where the patient normally lives.
Patient subject to community treatment (CTO, Conditional Discharge) under the MHA.	LSSA for the area where the responsible hospital is located.
Patient not subject to the MHA where section 57 treatment is being considered.	Contact the Mental Health Legislation team for advice.



Chapter 6 of the MHA Code of Practice provides further information.

8 Standard operating procedure for IMHA access to health records

Under section 130B of the Mental Health Act 1983 (the Act), for the purpose of providing help to a qualifying patient, IMHAs may require the production of and inspect any records relating to a patient's detention or treatment in any hospital or registered establishment or to any after-care services provided for the patient under section 117 of the Act. IMHAs may also require the production of and inspect any records of or held by, a local social services authority, which relate to the patient.



Anyone who refuses, without reasonable cause, to produce records that an IMHA has a right to inspect may be guilty of the offence of obstruction under section 129 of the Act.

8.1 Patients with Capacity



Where the patient has the capacity (or in the case of a child, the competence) to decide whether to consent to the IMHA seeing the records, the IMHA can only access the records if the patient has consented.

8.2 Patients without Capacity

Where the patient does not have the capacity or competence to consent to this disclosure:



Records must not be disclosed if that would conflict with a decision made in accordance with the Mental Capacity Act 2005 on the patient's behalf by a donee of lasting power of attorney or a deputy, or by the Court of Protection; otherwise, the record holder must allow the IMHA access if they think that it is appropriate and that the records in question are relevant to the help to be provided by the IMHA.

In this latter case, the MHA CoP advises that the record holder should ask the IMHA to explain what information they think is relevant to the help they are providing to the patient and why they think it is appropriate for them to be able to see that information.

8.3 Access

Once it is established that the IMHA may access the record, and which specific information, IMHAs will be required to agree a date and time with the ward or the Key Worker which is mutually agreeable to both to facilitate this, bearing in mind any scheduled meetings such as Mental Health Tribunals which the IMHA may need access to the records prior to.

A qualified member of the ward team, or the Key Worker for a community patient, will either log in and navigate the electronic patient record allowing the IMHA to view the relevant information, or print off the relevant information, such as a progress note summary, to give to the IMHA to view or take away dependant on what the patient has consented to. Where the record is a paper document, e.g., MHA documents, the IMHA may be allowed to view the documents or be given copies, again dependant on what the patient has consented to.

9 Definitions

Term	Definition
Informal patient	<ul style="list-style-type: none"> Someone who is being treated for a mental disorder and who is not detained under the MHA. Also sometimes known as a voluntary patient.
Detained Patient	<ul style="list-style-type: none"> A patient who is detained in hospital under the MHA, or who is liable to be detained in hospital but is (for any reason) currently out of hospital.
Liable to be detained	<ul style="list-style-type: none"> Broadly speaking, a patient is liable to be detained if they either are, or could be, detained in hospital because a specific authority for that is in force in respect of them. It includes patients who are on leave of absence or who are absent without leave. Patients who have been conditionally discharged are not liable to be detained, neither are Community Patients, they are liable to recall.
Community Treatment Order	<ul style="list-style-type: none"> The legal authority for the discharge of a patient from detention in hospital, subject to the possibility of recall to hospital for further treatment for mental disorder, if necessary.

10 How this procedure will be implemented

- This procedure will be published on the Trust’s intranet and external website.

- Line managers will disseminate this procedure to all Trust employees through a line management briefing.
- This procedure will be cross referenced in the Trust’s Mental Health Legislation E-Learning.

10.1 Training needs analysis

Staff/Professional Group	Type of Training	Duration	Frequency of Training
All clinical staff	E-Learning	Incorporated into MHL e-Learning package which is completed by all clinical staff	Every 2 years.

11 How the implementation of this procedure will be monitored

Number	Auditable Standard/Key Performance Indicators	Frequency/Method/Person Responsible	Where results and any Associate Action Plan will be reported to, implemented and monitored; (this will usually be via the relevant Governance Group).
1	Referral for IMHA services is identified at point of completing 132 rights. Completing of rights forms is monitored by MHL department.	Frequency = Monthly Method = Report on incomplete or delayed rights Responsible = MHL Department	Reported to MHLC on a quarterly basis

12 References

[Code of Practice Mental Health Act 1983, TSO, 2015](#)
[Independent Mental Health Advocates, supplementary guidance on access to patient records under section 130B MHA 1983](#)

13 Document control (external)

To be recorded on the policy register by Policy Coordinator

Required information type	Information
Date of approval	13 May 2024
Next review date	13 May 2027
This document replaces	MHA-0013-v4.1
This document was approved by	Mental Health Legislation Committee
This document was approved	13 May 2024
This document was ratified by	n/a
This document was ratified	n/a
An equality analysis was completed on this policy on	13 March 2024
Document type	Public
FOI Clause (Private documents only)	N/A

Change record

Version	Date	Amendment details	Status
3	12 June 2018	Minor changes, reflecting change to procedure template, appendix incorporated into body of document.	Withdrawn
3	08 July 2020	Links to InTouch removed. Review date extended by six months to 12 Jan 2022.	Withdrawn
4	21 Jan 2021	Process for IMHA referral changed to opt out system. Procedure template updated.	Withdrawn
4.1	31 August 2023	Sections 2.3.3 and 4.1 have had "PARIS" replaced with "electronic patient record" in readiness for the implementation of Cito. Section 4.1 replaces references to 132a and 132b forms with Rights Form.	Withdrawn

		(to be published when CITO system is live – published 07 Feb 2024)	
4.2	13 May 2024	Full review with minor changes including: <ul style="list-style-type: none"> • Template Updated. • Flow charts changed to tables for accessibility. • “Care co-ordinator” changed to “Key Worker” 	Published

Appendix 1 - Equality Impact Assessment Screening Form

Please note: The [Equality Impact Assessment Policy](#) and [Equality Impact Assessment Guidance](#) can be found on the policy pages of the intranet

Section 1	Scope
Name of service area/directorate/department	Mental Health Legislation Department
Title	Independent Mental Health Advocacy (IMHA) Procedure
Type	Procedure
Geographical area covered	Trustwide
Aims and objectives	Ensure standard process across Trust for referral and access to IMHA services
Start date of Equality Analysis Screening	15 February 2024
End date of Equality Analysis Screening	15 April 2024

Section 2	Impacts
<p>Who does the Policy, Procedure, Service, Function, Strategy, Code of practice, Guidance, Project or Business plan benefit?</p>	<p>Trust staff and patients</p>
<p>Will the Policy, Procedure, Service, Function, Strategy, Code of practice, Guidance, Project or Business plan impact negatively on any of the protected characteristic groups? Are there any Human Rights implications?</p>	<ul style="list-style-type: none"> • Race (including Gypsy and Traveller) NO • Disability (includes physical, learning, mental health, sensory and medical disabilities) NO • Sex (Men and women) NO • Gender reassignment (Transgender and gender identity) NO • Sexual Orientation (Lesbian, Gay, Bisexual, Heterosexual, Pansexual and Asexual etc.) NO • Age (includes, young people, older people – people of all ages) NO • Religion or Belief (includes faith groups, atheism and philosophical beliefs) NO • Pregnancy and Maternity (includes pregnancy, women / people who are breastfeeding, women / people accessing perinatal services, women / people on maternity leave) NO • Marriage and Civil Partnership (includes opposite and same sex couples who are married or civil partners) NO • Armed Forces (includes serving armed forces personnel, reservists, veterans and their families) NO • Human Rights Implications NO (Human Rights - easy read)
<p>Describe any negative impacts / Human Rights Implications</p>	<p>N/A</p>
<p>Describe any positive impacts / Human Rights Implications</p>	<p>Ensuring patients' rights are protected by acting lawfully and following best practice.</p>

Section 3	Research and involvement
What sources of information have you considered? (e.g. legislation, codes of practice, best practice, nice guidelines, CQC reports or feedback etc.)	Mental Health Act Mental Health Act Code of Practice
Have you engaged or consulted with service users, carers, staff and other stakeholders including people from the protected groups?	Yes
If you answered Yes above, describe the engagement and involvement that has taken place	The Trust's Equality, Diversity and Human Rights team were contacted.
If you answered No above, describe future plans that you may have to engage and involve people from different groups	

Section 4	Training needs
As part of this equality impact assessment have any training needs/service needs been identified?	No
Describe any training needs for Trust staff	Training will be provided through e-learning and is mandatory for clinical staff every 2 years.
Describe any training needs for patients	N/A
Describe any training needs for contractors or other outside agencies	N/A

Check the information you have provided and ensure additional evidence can be provided if asked.

Appendix 2 – Approval checklist

Title of document being reviewed:	Yes / No / Not applicable	Comments
1. Title		
Is the title clear and unambiguous?	Y	
Is it clear whether the document is a guideline, policy, protocol or standard?	Y	
2. Rationale		
Are reasons for development of the document stated?	Y	
3. Development Process		
Are people involved in the development identified?	Y	
Has relevant expertise has been sought/used?	Y	
Is there evidence of consultation with stakeholders and users?	Y	
Have any related documents or documents that are impacted by this change been identified and updated?	N/A	
4. Content		
Is the objective of the document clear?	Y	
Is the target population clear and unambiguous?	Y	
Are the intended outcomes described?	Y	
Are the statements clear and unambiguous?	Y	
5. Evidence Base		
Is the type of evidence to support the document identified explicitly?	Y	
Are key references cited?	Y	
Are supporting documents referenced?	Y	

6. Training		
Have training needs been considered?	Y	
Are training needs included in the document?	Y	
7. Implementation and monitoring		
Does the document identify how it will be implemented and monitored?	Y	
8. Equality analysis		
Has an equality analysis been completed for the document?	Y	
Have Equality and Diversity reviewed and approved the equality analysis?		Emailed on 19/03/2024
9. Approval		
Does the document identify which committee/group will approve it?	Y	
10. Publication		
Has the policy been reviewed for harm?	Y	
Does the document identify whether it is private or public?	Y	
If private, does the document identify which clause of the Freedom of Information Act 2000 applies?	N/A	
11. Accessibility (See intranet accessibility page for more information)		
Have you run the Microsoft Word Accessibility Checker? (Under the review tab, 'check accessibility'. You must remove all errors)	Y	
Do all pictures and tables have meaningful alternative text?	Y	
Do all hyperlinks have a meaningful description? (do not use something generic like 'click here')	Y	