

# **Section 132/132A MHA – providing information to patients and patients’ nearest relatives**

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## 1. Purpose

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

- Make sure that all patients subject to the Mental Health Act 1983 (MHA) are given and understand information about how the MHA applies to them.



**In inpatients, this duty is delegated to qualified care staff.**

**For patients on a Community Treatment Order (CTO) who have not been recalled to hospital, the Care Coordinator is responsible.**

- Make sure that information is also given to the patient's nearest relative.



**This duty is delegated to the Mental Health Legislation (MHL) department.**

## 2. Related documents

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

TEWV Interpreting and translation policy

TEWV Independent Mental Health Advocacy (IMHA) Procedure

## 3. Providing relevant information

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- Written information can be found in leaflets produced for this purpose. Leaflets can be obtained from the MHL department or from InTouch.
- These leaflets are available in different languages and formats (including audio visual DVD, Easy Read and Braille) and can be obtained from the MHL department.
- Leaflets in the most common languages are available on InTouch.
- An interpreter must be used for patients whose first language is not English or who require interpretation due to sensory deficits. See the Interpreting and Translation Policy for more information.

## 4. Information that must be provided to patients



This is a summary of information that is provided in chapter 4 of the MHA Code of Practice.

### 4.1. Information about detention and CTOs

You must explain the following:

- Of the provisions of the Act under which they are detained or subject to a CTO, and the effect of those provisions;
- Of the rights (if any) of their nearest relative to discharge them, and what can happen if their responsible clinician does not agree with that decision;
- For CTO patients, of the effect of the community treatment order, including the conditions which they are required to keep to and the circumstances in which their responsible clinician may recall them to hospital.
- The reasons for their detention or CTO;
- The maximum length of the current period of detention or CTO;
- That their detention or CTO may be ended at any time if it is no longer required or the criteria for it are no longer met;
- That they will not automatically be discharged when the current period of detention or CTO ends;
- That their detention or CTO will not automatically be renewed or extended when the current period of detention or CTO ends.
- For patients who have been recalled on a CTO, the reasons for being recalled;
- For patients whose CTO has been revoked, the reasons for revocation.

### 4.2. Information about recall to hospital whilst on a CTO



If a patient is to be recalled to hospital, the Responsible Clinician (RC) should give (or arrange for someone else to give) oral reasons for the decision before the recall. The patient may nominate another person who they wish to have informed of the decision.

### **4.3. Information about consent to treatment**

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You must explain what the MHA says about treatment for their mental disorder. In particular the patient must be told:

- The circumstances (if any) in which they can be treated without their consent – and when they have the right to refuse treatment;
- The role of second opinion appointed doctors (SOADs) and when they may be involved; and
- (Where relevant) the rules on electro-convulsive therapy (ECT).

### **4.4. Information about the tribunal**

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You must explain the following to the patient, or nearest relative in the case of the MHL department:

- Their right to apply to the Tribunal;
- About the role of the Tribunal;
- How to apply to a Tribunal;
- How to contact a suitably qualified legal representative;
- That free Legal Aid may be available;
- How to contact any other organisation, which may be able to help them make an application to a Tribunal.
- CTO patients whose community treatment orders are revoked, and conditionally discharged patients recalled to hospital, should be told that their cases will be referred automatically to the Tribunal.

### **4.5. Information about the hospital managers**

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You must explain the following:

- That the responsible clinician and the hospital managers have the right to discharge them (and, for restricted patients, that this is subject to the agreement of the Secretary of State for Justice).
- That the patient has the right to ask the hospital managers to discharge them;

- That the hospital managers must consider discharging them when their detention is renewed or their CTO extended;
- That this renewal or extension is different to their right to a Mental Health Review Tribunal.

#### **4.6. Information about independent mental health advocacy (IMHA)**

You must explain the following:

- That they have the right to have access to statutory independent mental health advocacy.



**Information about IMHA services must be given to all eligible patients and a TEWV leaflet is available.**

**See the TEWV IMHA procedure for further information**

#### **4.7. Information about the Care Quality Commission (CQC)**

You must explain the following:

- The role of the Care Quality Commission,
- When the Commission is to visit the hospital or unit – where advance notice is given;
- Of the role of the commissioners and their right to meet with them;
- Of their right to complain to the Care Quality Commission.

### **5. Information for nearest relatives**



**You must give the patient's nearest relative a copy of any information given to the patient in writing, unless the patient requests that you don't do this.**

You must give the patients nearest relative a copy of any information given to the patient in writing, unless the patient requests that you don't do this.

### **6. When to give information**

When a patient is first detained you must:

- Explain rights as described in section 4- Information that must be provided to patients
- Complete form 132B and send to Mental Health Legislation department

- Complete form 132A and file in the patient's casenotes



**You must review rights as described in section 4 - Information that must be provided to patients whenever any of the following happen**

- Detention is renewed or CTO is extended
- There is a change in the patient's legal status
- The patient is transferred
- Unsuccessful appeal against detention
- The patient is seen about consent to treatment
- There is a significant change in the patient's treatment
- A CTO patient or Conditionally Discharged patient is recalled to hospital
- A CPA review takes place
- It is three months since an inpatient's rights were reviewed

## **7. Form 132A and 132B**



**Form 132A must contain a complete record of the patient's current period of detention.**

**Where a patient's detention is prolonged, continuation sheets may be used as necessary**



**Form 132B must be completed when the patient is given their initial explanation of their rights.**

**It must be forwarded to the MHL department immediately.**

## 8. Document control

Date of approval:	12 July 2018	
Next review date:	12 January 2022	
This document replaces:	MHA-0009-v4.1 Section 132 Providing information to patients and relatives	
Lead:	Name	Title
	Mel Wilkinson	Head of Mental Health Legislation
Members of working party:	Name	Title
	Simon Marriott	Training and Policy Manager (Mental Health Legislation)
This document has been agreed and accepted by: (Director)	Name	Title
	Elizabeth Moody	Director of Nursing and Governance
This document was approved by:	Name of committee/group	Date
	MHL Committee	27 July 2015
An equality analysis was completed on this document on:	June 2018	

### Change record:

Version	Date	Amendment details	Status
4.1	Jan 2017	Forms 132A and 132B revised	Withdrawn
5	Jun 2018	Minor formatting changes.	Published
5	08 July 2020	Links to inTouch removed. Review date extended by six months to 12 Jan 2022.	Published

## 9. Appendices



# Form 132A

## Sections 132 and 132A MHA 1983

### Record of information given to patients subject to Mental Health Act 1983 (MHA)

#### To be completed for all patients subject to the MHA 1983

- After providing the patient with information on his / her rights including their rights to an Independent Mental Health Advocate (IMHA) verbally and in writing, on admission, or as soon as practicable after admission
- Each time this information is repeated / discussed with the patient during the admission and:
  - **At least every 3 months,**

**Or if**

- **Detention is renewed or CTO is extended**
- **there is a change in the patients legal status (e.g. S2 – S3, S2 – informal, S3 – CTO)**
- **the patient is transferred**
- **the patient is unsuccessful appealing against to detention to the Tribunal or Hospital Managers**
- **the patient is seen about consent to treatment**
- **there is a significant change in the patient’s treatment**
- **A CTO patient or Conditionally Discharged patient is recalled to hospital**
- **A CPA review takes place**

Name of Patient				DoB	
Section		Date of Section		Expiry date of Section	
Responsible clinician				Named nurse	
				Date	Expiry date
Regraded to section _____					
Regraded to section _____					
Regraded to section _____					
Regraded to section _____					
Section renewed / extended on:					
Section renewed / extended on:					
Section renewed / extended on:					
CTO revoked on:					
Discharged from section on:					

Consent to treatment will be required on \_\_\_\_\_ (Where applicable)

**PLEASE COMPLETE REVERSE OF FORM**

**Continuation sheet:**

Name of Patient					DoB	
Date rights given: (Please record leaflet given)	Patient reaction to this information	Assessment of comprehension	Information given by:	To be reviewed on (Date)		

**Please keep in patient's casenotes**

## Form 132B

### Sections 132 and 132A MHA 1983

#### Record of Information given to patients subject to Mental Health Act 1983 (MHA)

Name of patient				DoB	
Home Address					
Section		Date of Section		Expiry Date of Section	
Ward (if applicable)				Responsible Clinician	

To be completed with the patient

Please delete either a or b below:

- a. I understand that I am currently liable to be detained in hospital under Section \_\_\_\_\_ of the MHA
- b. I understand that I am currently subject to a Community Treatment Order under the MHA

My rights under the Act have been explained to me verbally including my right to an Independent Mental Health Advocate (IMHA) and I have been given a Mental Health Act leaflet which explains these rights and the IMHA leaflet.

I understand that my nearest relative may already have been contacted as per requirements of the Mental Health Act 1983; however, I understand that my nearest relative will be contacted in writing unless I request that this information is not given to them.

Please delete either a or b below

- a. I would like my nearest relative to be informed of my detention / CTO
- b. I would not like my nearest relative to be informed of my detention / CTO

Signed (Patient)				Date:	
To be completed by the nurse or other appropriately qualified professional					
				Yes	No
Was an interpreter used?					
Does the patient wish to contact an IMHA?					
Has contact been made with an IMHA?					
Does the patient wish to appeal against their section at this stage to:					
Hospital Managers?					
The Tribunal					
Signed:				Date	
Print Name:				Designation	

**Please forward to MHL department immediately**

## Appendix 1 - Equality Analysis Screening Form

Please note; The Equality Analysis Policy and Equality Analysis Guidance can be found on InTouch on the policies page

Name of Service area, Directorate/Department i.e. substance misuse, corporate, finance etc.	Mental Health Legislation Department			
Name of responsible person and job title	Simon Marriott, Training and Policy Manager, Mental Health Legislation			
Name of working party, to include any other individuals, agencies or groups involved in this analysis	N/A			
Policy (document/service) name	Section 132 – Providing information to patients			
Is the area being assessed a...	Policy/Strategy	<input type="checkbox"/>	Service/Business plan	<input type="checkbox"/>
	Procedure/Guidance	<input type="checkbox"/>	x	Code of practice
	Other – Please state			
Geographical area covered	Trust-wide			
Aims and objectives	<ul style="list-style-type: none"> <li>• Make sure that all patients subject to the Mental Health Act 1983 (MHA) are given and understand information about how the MHA applies to them.</li> <li>• Make sure that information is also given to the patient's nearest relative.</li> </ul>			
Start date of Equality Analysis Screening (This is the date you are asked to write or review the document/service etc.)	May 2018			
End date of Equality Analysis Screening (This is when you have completed the equality analysis and it is ready to go to EMT to be approved)	June 2018			

You must contact the EDHR team if you identify a negative impact. Please ring Sarah Jay or Ian Mhlanga on 0191 3336267/3046

1. Who does the Policy, Service, Function, Strategy, Code of practice, Guidance, Project or Business plan benefit?					
<ul style="list-style-type: none"> <li>Ensures that the obligations placed on TEWV by the Mental Health Act 1983 are met</li> <li>Ensures that patients and their nearest relatives are provided with information about detention under the MHA</li> </ul>					
2. Will the Policy, Service, Function, Strategy, Code of practice, Guidance, Project or Business plan impact negatively on any of the protected characteristic groups below?					
<b>Race</b> (including Gypsy and Traveller)	No	<b>Disability</b> (includes physical, learning, mental health, sensory and medical disabilities)	No	<b>Sex</b> (Men, women and gender neutral etc.)	No
<b>Gender reassignment</b> (Transgender and gender identity)	No	<b>Sexual Orientation</b> (Lesbian, Gay, Bisexual and Heterosexual etc.)	No	<b>Age</b> (includes, young people, older people – people of all ages)	No
<b>Religion or Belief</b> (includes faith groups, atheism and philosophical belief's)	No	<b>Pregnancy and Maternity</b> (includes pregnancy, women who are breastfeeding and women on maternity leave)	No	<b>Marriage and Civil Partnership</b> (includes opposite and same sex couples who are married or civil partners)	No
<p><b>Yes</b> – Please describe anticipated negative impact/s</p> <p><b>No</b> – Please describe any positive impacts/s</p>					
3. Have you considered other sources of information such as; legislation, codes of practice, best practice, nice guidelines, CQC reports or feedback etc.?				<b>Yes</b>	

<b>If 'No', why not?</b>					
Procedure is based on statutory guidance included in the MHA 1983 Code of Practice.					
<b>Sources of Information may include:</b>					
<ul style="list-style-type: none"> <li>• Feedback from equality bodies, Care Quality Commission, Equality and Human Rights Commission, etc.</li> <li>• Investigation findings</li> <li>• Trust Strategic Direction</li> <li>• Data collection/analysis</li> <li>• National Guidance/Reports</li> </ul>		<ul style="list-style-type: none"> <li>• Staff grievances</li> <li>• Media</li> <li>• Community Consultation/Consultation Groups</li> <li>• Internal Consultation</li> <li>• Research</li> <li>• Other (Please state below)</li> </ul>			
4. Have you engaged or consulted with service users, carers, staff and other stakeholders including people from the following protected groups?: Race, Disability, Gender, Gender reassignment (Trans), Sexual Orientation (LGB), Religion or Belief, Age, Pregnancy and Maternity or Marriage and Civil Partnership					
<b>Yes</b> – Please describe the engagement and involvement that has taken place					
<b>No</b> – Please describe future plans that you may have to engage and involve people from different groups					

5. As part of this equality analysis have any training needs/service needs been identified?											
<table border="1"> <tr> <td style="width: 10%;"><b>Yes/No</b></td> <td colspan="5">Please describe the identified training needs/service needs below</td> </tr> </table>						<b>Yes/No</b>	Please describe the identified training needs/service needs below				
<b>Yes/No</b>	Please describe the identified training needs/service needs below										
A training need has been identified for;											
Trust staff	No	Service users	No	Contractors or other outside agencies	No						
<b>Make sure that you have checked the information and that you are comfortable that additional evidence can provided if you are required to do so</b>											
The completed EA has been signed off by: You the Policy owner/manager: Simon Marriott:					Date: 04/06/18						
Your reporting (line) manager: Mel Wilkinson:					Date: 04/06/18						
If you need further advice or information on equality analysis, the EDHR team host surgeries to support you in this process, to book on and find out more please call: 0191 3336267/3046											