

<p>Reference Number: UHB 478</p> <p>Version Number: 1</p>	<p>Date of Next Review: 25/06/2023</p> <p>Previous Trust/LHB Reference Number: N/A</p>
<p align="center">Allocation of Responsible Clinicians and Nominated Deputy, Mental Health Act, 1983 Procedure</p>	
<p>Introduction and Aim</p> <p>This document supports the Allocation of Responsible Clinicians and Nominated Deputy, Mental Health Act, 1983 (MHA) Policy.</p> <p>Cardiff & Vale University Health Board are committed to providing appropriate services to detained patients being assessed and treated under the Mental Health Act 1983.</p> <p>To ensure every patient has an allocated Responsible Clinician (RC), who will have overall responsibility for the patients care and treatment under the MHA.</p> <p>To provide clear guidance in relation to identification of the nominated deputy, who is able to independently exercise section 5(2) powers in the absence of the RC.</p> <p>To Ensure that statutory requirements under the Mental Health Act 1983 are met.</p>	
<p>Objectives</p> <p>This procedure describes the following with regard to allocating or changing a Responsible Clinician and identification of the nominated deputy :</p> <ul style="list-style-type: none"> • The purpose of a Responsible Clinician and nominated deputy • The process for identifying, allocating or changing the Responsible Clinician • The process for identifying the nominated deputy • The duties of the Responsible Clinician and nominated deputy <p>Practitioners must have due regard to the Mental Health Act Code of Practice generally and specifically to the Guiding Principles when they are providing treatment under the MHA. This will ensure that considerations are given as to whether the objectives can be met in a less restrictive way.</p>	
<p>Scope</p> <p>This procedure applies to all of our staff in any inpatient setting where a person is receiving compulsory treatment in hospital under the MHA or is subject to a community treatment order (CTO).</p>	
<p>Equality and Health Impact Assessment</p>	<p>There is potential for both positive and negative impact. The procedure is aimed at improving services and meeting diverse needs. Mitigation actions are already in place to offset any potential negative outcome, e.g. through the monitoring of the procedure. There is nothing, at this time, to stop the procedure from being implemented.</p>

Documents to read alongside this Procedure	<ul style="list-style-type: none"> • The Mental Health Act 1983 (as amended by the Mental Health Act 2007) • Mental Health (hospital, guardianship, community treatment and consent to treatment)(Wales) regulations 2008 • The Mental Capacity Act 2005 (including the Deprivation of Liberty Safeguards delegated to this Act under the Mental Health Act 2007) • The respective Codes of Practice of the above Acts of Parliament • The Human Rights Act 1998 (and the European Convention on Human Rights) • The Equality Act 2010 • Mental Health (Wales) Measure 2010 • All Cardiff and Vale Mental Health Act Policies and Procedures
Approved by	Mental Health Clinical Board Quality and Safety Committee

Accountable Executive or Clinical Board Director	Chief Operating Officer
Author(s) Sunni Webb Mental Health Act Manager Simon McDonald Deputy Mental Health Act Manager Dr Mary Lawrence Responsible Clinician Representative Adult Acute Dr Michael Ivenso Responsible Clinician Representative Older People	Mental Health Act Manager
<p style="text-align: center;"><u>Disclaimer</u> If the review date of this document has passed please ensure that the version you are using is the most up to date either by contacting the document author or the Governance Directorate.</p>	

Summary of reviews/amendments			
Version Number	Date of Review Approved	Date Published	Summary of Amendments
1	25/06/2020	27/07/2020	New document

CONTENTS

1.	Introduction	4
2.	Procedure Statement	4
3.	Purpose	4
4.	Scope	5
5.	Roles and Responsibilities	5
6.	Allocation of the RC	5
7.	Non Medical AC's	6
8.	Recording of RC on PARIS	6
9.	Community Treatment Orders	6
10.	Cover arrangements for when the RC is not available	7
11.	Out of Hours Cover	7
12.	Patients admitted to the general hospital under the MHA	7
13.	Functions that can only be performed by the RC	8
14.	Change of RC	8
15.	Nominated Deputy	9
16.	Training	10
17.	Implementation	10
18.	Responsibilities	10
19.	References	10

1 INTRODUCTION

- 1.1 This procedure sets out to describe the process of identifying, allocating or changing the Responsible Clinician (RC) responsible for the care and treatment of patients detained under the Mental health Act 1983 (MHA). It also gives guidance on the duties of the Responsible Clinician and nominated deputy.
- 1.2 Under the MHA the RC is the Approved Clinician (AC) with overall responsibility for the patient's case.
- 1.3 An AC is a mental health professional approved by the Welsh Ministers (or the Secretary of State) to act as an AC for the purposes of the Act. In practice, local health boards take these decisions on behalf of the Welsh Ministers.
- 1.4 Certain decisions, such as the renewal of detention, authorisation of leave or placing a patient on a community treatment order (CTO) can only be taken by the RC.

2 PROCEDURE STATEMENT

- 2.1 Cardiff and Vale University Health Board are committed to providing an adequately resourced, safe and effective service that meets the needs of the patient and service delivery requirements. Whilst working within the framework that meets the legal requirements of the MHA, Mental Health Act 1983, Code of Practice for Wales, Revised 2016 (CoP) and other associated legislation.

3 PURPOSE

- 3.1 This procedure has been developed to provide guidance to staff regarding the functions of the AC and RC.
- 3.2 The purpose of this procedure is to ensure that, for all those detained under the MHA, or subject to a CTO, there are clear and thorough arrangements in place to:
 - Ensure that the patient's RC is the available AC with the most appropriate expertise to meet the patients main assessment and treatment needs
 - Ensure that it can be easily determined who a particular RC is
 - Ensure that cover arrangements are in place when the RC is not available (e.g. during non-working hours, annual leave etc)
 - Include a system for keeping the appropriateness of the RC under review

- 3.3 This document does not attempt to describe all eventualities, but there are three basic principles which should be used to determine the correct course of action:
- All detained/CTO patients must have an RC at all times.
 - A patient can only have one RC (but more than one AC may be involved in their care).
 - The RC can change from time to time.

- 3.3 All staff should be familiar with the relevant sections in the Mental Health Act 1983 (the Act), Code of Practice for Wales, Revised 2016.

4 SCOPE

- 4.1 This procedure applies to all AC's employed by Cardiff and Vale University Health Board.
- 4.2 All patients detained under Part 2 or Part 3 of the MHA must have an RC to perform various functions under the MHA.
- 4.3 The Health Board has in place appropriate governance arrangements to monitor and review the exercise of functions under the MHA on its behalf. The Mental Health and Capacity Legislation Committee is specifically for this purpose.

5 ROLES AND RESPONSIBILITIES

- 5.1 The Medical Director is responsible for ensuring that there is a system in place to ensure that medical staff appointed to undertake RC roles have the necessary approval.
- 5.2 The Clinical Director is responsible for ensuring that there is cover for Responsible Clinicians who are on sick leave
- 5.3 AC's are responsible for maintaining their approval, including necessary refresher training.

6 ALLOCATION OF THE RC

- 6.1 The RC for those admitted to Cedar ward for assessment will be the inpatient consultant for Cedar ward. Unless there are other factors which consider the locality RC may be identified as having the most appropriate expertise.
- 6.2 Once the patient moves to their locality ward the RC will usually be the inpatient consultant responsible for that area.
- 6.3 Where there is more than one AC available for that area, the RC will be the available AC with the most appropriate skills and experience to meet the needs of the patient.
- 6.4 Wherever possible, the clinician responsible for the care and treatment of children should be a child and adolescent mental health services (CAMHS) specialist. If this is not

possible clinical staff should have access to a CAMHS specialist for advice and consultation.

- 6.5 Wherever possible, the clinician responsible for the care and treatment of a person with learning disabilities or autistic spectrum disorder (ASD) should be a specialist in that field. If this is not possible clinical staff should have access to a learning disability or ASD specialist for advice and consultation.

7 NON-MEDICAL ACs

- 7.1 If the most appropriate person identified to undertake the role of RC is not a doctor, it may be necessary to allocate an AC who is a doctor. For example, the most appropriate RC for a particular person is a psychologist who is not a prescriber.
- 7.2 The clinician in charge of the treatment must be an AC if treatment is being given:
- Without the patients consent
 - With the patients consent but on the basis of a certificate issued under section 58 or 58A, MHA
 - Pending compliance with section 58 and with the consent of a CTO patient who has been recalled to hospital, in order to avoid serious suffering

8 RECORDING RC ON PARIS

- 8.1 The RC must be recorded on PARIS.
- 8.2 It is the responsibility of the RC to ensure that this is done. However, this task can be delegated to another member of their team.
- 8.3. When the RC is changed it is the responsibility of the RC taking over care of the patient to ensure that the change of RC is recorded on PARIS.
- 8.4 There is no need to change RC on PARIS for short-term changes, e/g/ leave and sickness cover.
- 8.5 If applicable the second AC must be recorded on PARIS. It is the responsibility of the second AC to ensure that this is done. If this AC is changed, it is the responsibility of the AC taking over to record the change of AC.

9 COMMUNITY TREATMENT ORDERS

- 9.1 The RC for those subject to a CTO will usually be determined by the Community Mental Health Team (CMHT) who will be responsible for providing care for the patient once discharged from hospital.
- 9.2 Where there is more than one AC available for that area, the RC will be the available AC with the most appropriate skills and experience to meet the needs of the patient.

- 9.3 Upon recall or revoke, unless there are other factors to be considered, the community consultant will remain the RC unless a change of RC is agreed.

10 COVER ARRANGEMENTS FOR WHEN THE RC IS NOT AVAILABLE

- 10.1 The functions of RC cannot be delegated, but the patients RC can change from time to time and the role may be occupied on a temporary basis in the absence of the usual RC. This may be necessitated by:
- Annual, professional/study leave, maternity/paternity leave or unpaid leave
 - Sickness
 - Part-time working
 - Out of hours cover
- 10.2 Any RC who works part time is responsible, in conjunction with their Clinical Director for ensuring that another AC can act as the RC for the hours when they are not at work. The cover arrangements described in this section do not constitute a transfer of RC.
- 10.3 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.
- 10.4 The Clinical Director, Mental health Clinical Board should be responsible for arranging cover from an appropriately qualified AC for any period of sick leave. Where a period of sickness becomes long term then consideration should be given to a more formal transfer of RC.

11 OUT OF HOURS COVER

- 11.1 The Duty Consultant (on call consultant psychiatrist who must be an AC) will provide cover out of hours for RC functions. This will include providing any advice for nominated deputies (ie the nominated junior doctor on call) who are not AC's (or doctors approved under s12, MHA).
- 11.2 On occasions in hours where there is no identified RC the Duty Consultant will provide RC.
- 11.3 It is good practice to keep to a minimum any of the RC functions that are exercised in this way.
- 11.4 RC's should not leave decisions that they are required to make or functions that they are required to undertake to the Duty Consultant. However this should not prevent decisions being made when they are required out of hours.
- 11.5 If an AC is providing cover as described above to perform a function that can only be performed by the RC. For example to recall a CTO patient or to authorise s17 leave in an emergency it is important to note that they are acting **AS** the Rc and not acting **ON BEHALF OF** the RC.

12 PATIENTS ADMITTED TO A NON MENTAL HEALTH WARD UNDER THE MHA

- 12.1 A patient admitted and detained under the MHA to a Cardiff and Vale UHB non mental health ward will require an RC. In most cases this will be one of the Liason Psychiatrists.

- 12.2 In the absence of a liaison psychiatry service RC cover will be provided by the locality consultant psychiatrist.
- 12.3 Where a patient is well known to a particular CMHT it may be considered more appropriate for the RC from that team to remain responsible.
- 12.4 A detained patient who is transferred to a general hospital should remain under the care of the existing RC unless a change of RC is agreed.

13 FUNCTIONS THAT CAN ONLY BE PERFORMED BY THE RC

- 13.1 Specific powers and duties that can only be performed by the RC include:
- Granting s17 leave
 - Revoking a period of leave and recall
 - Discharge from detention, guardianship or CTO
 - Renewal of detention or CTO
 - Agreeing conditions of a CTO with an Approved Mental Health Professional (AMHP)
 - Varying or suspending conditions of a CTO
 - Recalling a patient from a CTO
 - Barring a nearest relatives attempt to discharge a patient
 - Providing certificates to authorise treatment under Part 4 (only for treatment they can professionally prescribe)
 - Providing evidence to courts and the Ministry of Justice as required
- 13.2 Section 17 leave cannot be granted by the RC for those detained under s35, s36, or s38.
- 13.3 The RC can grant leave for restricted patients **but only with** approval from the Ministry of Justice.

14 CHANGE OF RC

- 14.1 As the needs of the patient may change over time, it is important that the appropriateness of the RC is kept under review throughout the care planning process. It may be appropriate for the patients RC to change during a period of care and treatment, if such a change enables the needs of the patient to be met more effectively.
- 14.4 All staff to provide evidence that they have reasonably undertaken investigations to determine the persons last known “ordinary” residence. The address is not a care home of any type or a placement funded under s117 from another area/authority. Evidence to be documented in patients electronic notes as soon as practicable.
- 14.5 For instance:-

- Where there may be an emphasis on pharmacological therapy, it may be appropriate for the RC to be an AC who is registered medical practitioner or a (Nurse Prescriber)
- Where the main therapy that is central to the patient's treatment is psychological, it may be more appropriate for the RC to be a psychologist.
- Where the care plan's main emphasis is continuing mental health care and rehabilitation, it may be appropriate for the RC to be a nurse.
- Where the balance of activities is based around skill development and vocational rehabilitation, and this work forms the core of the patient's care plan, then it may be more appropriate for the Occupational therapist to be the RC.

- 14.6 Where a patient's treatment and rehabilitation require movement between different hospitals or to the community, successive RC's need to be identified in good time to enable movement to take place.
- 14.7 The existing RC is responsible for overseeing the patient's progress through the system. If movement to another hospital is indicated, RC's should take the lead in identifying their successors.
- 14.8 If the patient requests a change of RC their reasons should be established. 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.
- 14.9 The process of considering a patient's request will be overseen by the Clinical Director.

15 NOMINATED DEPUTY

- 15.1 Section 5(3) allows the doctor or approved clinician in charge of an inpatient's treatment to nominate a deputy to independently exercise section 5(2) powers in their absence.
- 15.2 Only a doctor or approved clinician on the staff of the same hospital may be a nominated deputy. The deputy does not have to be a member of the same profession as the person nominating them. Only one deputy may be authorised at any time for any patient, and it is unlawful for a nominated deputy to nominate another.
- 15.3 Doctors and approved clinicians should only be nominated as a deputy if they are competent to perform the role. Nominated deputies should report the use of section 5(2) to the person for whom they are deputising as soon as practicable.
- 15.4 It is permissible for the RC to nominate the "doctor with responsibility for P's immediate care" providing that there would be no uncertainty about the identity of this doctor. In other words, ward staff would have immediate access to this information and would not have to make enquiries as to which doctor to contact.
- 15.5 Doctors and approved clinicians may leave instructions with ward staff to contact them (or their nominated deputy) if a particular patient wants or tries to leave. However, they may not leave instructions for their nominated deputy to use section 5(2), nor may they complete a section 5(2) report in advance to be used in their absence. The deputy must exercise their own professional judgment. Patients should not be admitted informally with the sole intention of then using the holding power.

16 TRAINING

- 16.1 All staff who work within Cardiff and Vale University Health Board are responsible for ensuring that they maintain an up to date knowledge of the Mental Health Act 1983 and associated legislation as it applies within their practice.

17 IMPLEMENTATION

- 17.1 This document will be widely disseminated to staff across Cardiff and Vale University Health Board. It will be published on the organisations intranet site and referred to during training relevant to the Act.

18 RESPONSIBILITIES

- 18.1 Chief Executive - The Chief Executive Officer has overarching responsibility for ensuring that Cardiff and Vale University Health Board is compliant with the law in relation to the Mental Health Act.
- 18.2 Chief Operating Officer - The Chief Operating Officer is the Executive Lead for Mental Health. He has overarching responsibility for ensuring compliance with the contents of this procedure.
- 18.3 Clinical Directors/Service Managers - It is the responsibility of all clinical managers to:
- Ensure that this procedure is brought to the attention of all their staff, and that they understand and adhere to the guidance/procedure contained within.
 - Ensure that all staff involved in the care and treatment of detained patients have received adequate training and are competent to carry out these functions.

19 REFERENCES

- 19.1 All staff will work within in accordance with:
- Mental Health Act 1983 - www.legislation.gov.uk/ukpga/1983/20/contents
 - Mental Capacity Act 2005 - www.legislation.gov.uk/ukpga/2005/9/schedule/7
 - Human Rights Act 1998 - www.legislation.gov.uk/ukpga/1998/42/contents
 - Domestic Violence, Crime and Victims Act 2004
 - Mental Health (Hospital, Guardianship, Community Treatment and Consent to Treatment) (Wales) Regulations 2008
 - Mental Health Wales Measure (2010)