

## Equality & Health Impact Assessment for CONSENT TO EXAMINATION OR TREATMENT POLICY

**Please note:**

- The completed Equality & Health Impact Assessment (EHIA) must be
  - Included as an appendix with the cover report when the strategy, policy, plan, procedure and/or service change is submitted for approval
  - Published on the UHB intranet and internet pages as part of the consultation (if applicable) and once agreed.
- Formal consultation must be undertaken, as required<sup>1</sup>
- Appendices 1-3 must be deleted prior to submission for approval

Please answer all questions:-

1.	For service change, provide the title of the Project Outline Document or Business Case and Reference Number	N/A
2.	Name of Clinical Board / Corporate Directorate and title of lead member of staff, including contact details	Mental Capacity Act Manager, tel. 029 2183 6312  Medical Director's Office
3.	Objectives of strategy/ policy/ plan/ procedure/ service	This policy sets out the legal framework that governs the provision of treatment and care to patients.  The legal framework comprises the common law on consent; the Mental Capacity Act 2005; and the Mental Health Act 1983.

<sup>1</sup>[http://nww.cardiffandvale.wales.nhs.uk/portal/page?\\_pageid=253,73860407,253\\_73860411&\\_dad=portal&\\_schema=PORTAL](http://nww.cardiffandvale.wales.nhs.uk/portal/page?_pageid=253,73860407,253_73860411&_dad=portal&_schema=PORTAL)

		<p>There is also some particular legislation for specialist issues – e.g. research and organ donation.</p> <p>The policy applies to all the UHB’s patients.</p> <p>Clinicians who do not comply with this policy are likely to be acting unlawfully.</p>
4.	<p>Evidence and background information considered. For example</p> <ul style="list-style-type: none"> <li>• population data</li> <li>• staff and service users data, as applicable</li> <li>• needs assessment</li> <li>• engagement and involvement findings</li> <li>• research</li> <li>• good practice guidelines</li> <li>• participant knowledge</li> <li>• list of stakeholders and how stakeholders have engaged in the development stages</li> <li>• comments from those involved in the designing and development stages</li> </ul> <p>Population pyramids are available from Public Health Wales Observatory<sup>2</sup> and the UHB’s ‘Shaping Our Future Wellbeing’ Strategy provides an overview of health need<sup>3</sup>.</p>	<ul style="list-style-type: none"> <li>• This Policy applies to all patients being treated and cared for by the UHB and sets out the law regarding the provision of health care and treatment. If the Policy is not followed, staff will be treating and caring for patients unlawfully. As the Policy applies to all patients, there is no question of the Policy having a negative effect on any of the equalities groups. There are positive impacts which the policy includes – see the impact section below.</li> <li>• The EqlA completed for the previous version of this Policy found there to be no adverse impact on any of the equalities groups. As the law on consent and capacity has not substantially changed since then, it is most unlikely that the effect of this Policy on any of the equalities groups will have changed. There are positive impacts which the policy includes – see the impact section below.</li> </ul>
5.	Who will be affected by the strategy/ policy/ plan/ procedure/ service	UHB staff and patients.

<sup>2</sup> <http://nww2.nphs.wales.nhs.uk:8080/PubHObservatoryProjDocs.nsf>

<sup>3</sup> <http://www.cardiffandvaleuhb.wales.nhs.uk/the-challenges-we-face>

## 6. EQIA / How will the strategy, policy, plan, procedure and/or service impact on people?

Questions in this section relate to the impact on people on the basis of their 'protected characteristics'. Specific alignment with the 7 goals of the Well-being of Future Generations (Wales) Act 2015 is included against the relevant sections.

How will the strategy, policy, plan, procedure and/or service impact on:-	Potential positive and/or negative impacts	Recommendations for improvement/ mitigation	Action taken by Clinical Board / Corporate Directorate. Make reference to where the mitigation is included in the document, as appropriate
<b>6.1 Age</b> For most purposes, the main categories are: <ul style="list-style-type: none"> <li>• under 18;</li> <li>• between 18 and 65; and</li> <li>• over 65</li> </ul>	In the case of a patient under 16 years of age, consent may be given either by the patient, if they are <i>Gillick</i> competent, or by someone with parental responsibility for them. For patients who are 16 years and over, treatment and care may be lawfully provided either with the patient's consent, or through the Mental Capacity Act 2005. Patients of any age may be treated under Mental Health Act 1983. The Policy therefore has a positive impact, because patients of all ages are reflected in the policy.		
<b>6.2 Persons with a disability as defined in the Equality Act 2010</b> Those with physical impairments, learning disability, sensory loss or impairment, mental health conditions, long-term medical conditions such as diabetes	For patients under 16 years of age who have a disability, consent may be given either by the patient, if they are <i>Gillick</i> competent, or by someone with parental responsibility for them. For patients who are 16 years and over, treatment and care may be lawfully provided either with the patient's consent, or through the Mental Capacity Act 2005. Patients of any age may be treated under Mental Health Act 1983.  For treatment and care to be provided lawfully, it is		

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	<p>essential that patients are able to both receive information and communicate in the medium of their choice, as the Consent Policy makes clear. So, for example, it is essential that UHB staff access BSL interpreters, where appropriate.</p> <p>The Mental Capacity Act 2005 has as one of its principles the provision of support to help people make their own decisions. The Consent Policy includes the need to provide information to patients in different languages and media and to comply with the Mental Capacity Act 2005 where appropriate. The Mental Capacity Act 2005 Code of Practice gives examples of the kinds of support that could be provided.</p> <p>The Policy therefore has a positive impact, because it sets out the legal requirements to provide patients with information that they can understand and to support them to make their own decisions.</p>		
<p><b>6.3 People of different genders:</b> Consider men, women, people undergoing gender reassignment</p> <p><b>NB</b> Gender-reassignment is</p>	<p>No evidence. All UHB patients must be treated in compliance with the law, regardless of their gender.</p>		

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anyone who proposes to, starts, is going through or who has completed a process to change his or her gender with or without going through any medical procedures. Sometimes referred to as Trans or Transgender			
<b>6.4 People who are married or who have a civil partner.</b>	No evidence. All UHB patients must be treated in compliance with the law, regardless of their marriage or civil partnership status.		
<b>6.5 Women who are expecting a baby, who are on a break from work after having a baby, or who are breastfeeding.</b> They are protected for 26 weeks after having a baby whether or not they are on maternity leave.	No evidence. All UHB patients must be treated in compliance with the law, regardless of whether or not they are pregnant or have just had a baby, or are breast-feeding.		
<b>6.6 People of a different race, nationality, colour, culture or ethnic origin including non-English speakers, gypsies/travellers, migrant workers</b>	All UHB patients must be treated in compliance with the law, regardless of their race. For treatment and care to be provided lawfully, it is essential that patients are able to both receive information and communicate in the language of their choice. If patients cannot understand the information		

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	about the treatment they are being offered, then any “consent” will be invalid and the treatment will be unlawful. The Policy reflects that patients must be given information and communicate in the language/method of their choice. The Policy may therefore have a positive impact.		
<b>6.7 People with a religion or belief or with no religion or belief.</b> The term ‘religion’ includes a religious or philosophical belief	Whether patients have a religious faith or not, they cannot be treated without their consent, or outwith the Mental Capacity Act 2005 or the Mental Health Act 1983. The law is clear that people who have the mental capacity to do so, may refuse any treatment on any grounds, including religious beliefs, or for no clear reason. The Policy, in setting out the law, may have a positive impact.		
<b>6.8 People who are attracted to other people of:</b> <ul style="list-style-type: none"> <li>the opposite sex (heterosexual);</li> <li>the same sex (lesbian or gay);</li> <li>both sexes (bisexual)</li> </ul>	No evidence. All UHB patients must be treated in compliance with the law, regardless of their sexual orientation.		

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<p><b>6.9 People who communicate using the Welsh language in terms of correspondence, information leaflets, or service plans and design</b></p> <p>Well-being Goal – A Wales of vibrant culture and thriving Welsh language</p>	<p>All UHB patients must be treated in compliance with the law, regardless of their being Welsh speakers or speakers of any other language. If patients are unable to understand the information they are given about possible treatments, because of language differences, then any “consent” gained will be invalid and any treatment may well be unlawful. The policy reflects the requirement to ensure that patients are able to receive information and communicate in the language/manner of their choice. The Policy may therefore have a positive impact.</p>		
<p><b>6.10 People according to their income related group:</b> Consider people on low income, economically inactive, unemployed/workless, people who are unable to work due to ill-health</p>	<p>No evidence. All UHB patients must be treated in compliance with the law, regardless of their income.</p>		
<p><b>6.11 People according to where they live:</b> Consider people living in areas known to exhibit poor economic and/or health indicators, people unable</p>	<p>No evidence. All UHB patients must be treated in compliance with the law, regardless of where they live.</p>		

How will the strategy, policy, plan, procedure and/or service impact on:-	Potential positive and/or negative impacts	Recommendations for improvement/ mitigation	<b>Action taken by Clinical Board / Corporate Directorate.</b> Make reference to where the mitigation is included in the document, as appropriate
to access services and facilities			
<b>6.12 Consider any other groups and risk factors relevant to this strategy, policy, plan, procedure and/or service</b>	No evidence.		



**7. HIA / How will the strategy, policy, plan, procedure and/or service impact on the health and well-being of our population and help address inequalities in health?**

Questions in this section relate to the impact on the overall health of individual people and on the impact on our population. Specific alignment with the 7 goals of the Well-being of Future Generations (Wales) Act 2015 is included against the relevant sections.

<b>How will the strategy, policy, plan, procedure and/or service impact on:-</b>	<b>Potential positive and/or negative impacts and any particular groups affected</b>	<b>Recommendations for improvement/ mitigation</b>	<b>Action taken by Clinical Board / Corporate Directorate</b> Make reference to where the mitigation is included in the document, as appropriate
<b>7.1 People being able to access the service offered:</b> Consider access for those living in areas of deprivation and/or those experiencing health inequalities  Well-being Goal - A more equal Wales	No impact		
<b>7.2 People being able to improve /maintain healthy lifestyles:</b> Consider the impact on healthy lifestyles, including healthy eating, being active, no smoking /smoking cessation, reducing the harm caused by alcohol and /or non-prescribed drugs plus access to services that support disease prevention (eg immunisation and vaccination, falls prevention). Also consider	No impact		

How will the strategy, policy, plan, procedure and/or service impact on:-	Potential positive and/or negative impacts and any particular groups affected	Recommendations for improvement/ mitigation	Action taken by Clinical Board / Corporate Directorate Make reference to where the mitigation is included in the document, as appropriate
<p>impact on access to supportive services including smoking cessation services, weight management services etc</p> <p>Well-being Goal – A healthier Wales</p>			
<p><b>7.3 People in terms of their income and employment status:</b> Consider the impact on the availability and accessibility of work, paid/ unpaid employment, wage levels, job security, working conditions</p> <p>Well-being Goal – A prosperous Wales</p>	No impact		
<p><b>7.4 People in terms of their use of the physical environment:</b> Consider the impact on the availability and accessibility of transport, healthy food, leisure activities, green spaces; of the design of the built environment on the physical and mental</p>	No impact		

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<p>health of patients, staff and visitors; on air quality, exposure to pollutants; safety of neighbourhoods, exposure to crime; road safety and preventing injuries/accidents; quality and safety of play areas and open spaces</p> <p>Well-being Goal – A resilient Wales</p>			
<p><b>7.5 People in terms of social and community influences on their health:</b> Consider the impact on family organisation and roles; social support and social networks; neighbourliness and sense of belonging; social isolation; peer pressure; community identity; cultural and spiritual ethos</p> <p>Well-being Goal – A Wales of cohesive communities</p>	No impact		

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<p><b>7.6 People in terms of macro-economic, environmental and sustainability factors:</b> Consider the impact of government policies; gross domestic product; economic development; biological diversity; climate</p> <p>Well-being Goal – A globally responsible Wales</p>	No impact		

Please answer question 8.1 following the completion of the EHIA and complete the action plan

<p><b>8.1 Please summarise the potential positive and/or negative impacts of the strategy, policy, plan or service</b></p>	<p>The Policy applies to all of the UHB's patients. It sets out the law regarding consent to treatment and mental capacity. If the Policy is not followed then the patient is at risk of unlawful treatment/care, regardless of whether or not they are protected by equalities legislation.</p> <p>The policy may have a positive impact on the following equalities groups – age; disability; race; religion and Welsh language.</p> <p>There is no evidence that the Consent Policy adversely affects any of the equalities groups and it is neither directly nor indirectly discriminatory under the equalities legislation.</p>
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### Action Plan for Mitigation / Improvement and Implementation

	Action	Lead	Timescale	Action taken by Clinical Board / Corporate Directorate
<p><b>8.2 What are the key actions identified as a result of completing the EHIA?</b></p>	<p>Remind Clinical Boards to report any Consent Policy Equality issues to MCA Manager</p>	<p>MCA Manager</p>	<p>After adoption of Consent Policy</p>	

	Action	Lead	Timescale	Action taken by Clinical Board / Corporate Directorate
<p><b>8.3 Is a more comprehensive Equalities Impact Assessment or Health Impact Assessment required?</b></p> <p>This means thinking about relevance and proportionality to the Equality Act and asking: is the impact significant enough that a more formal and full consultation is required?</p>	No.			

	Action	Lead	Timescale	Action taken by Clinical Board / Corporate Directorate
<b>8.4 What are the next steps?</b>  Some suggestions:- <ul style="list-style-type: none"> <li>Decide whether the strategy, policy, plan, procedure and/or service proposal:               <ul style="list-style-type: none"> <li>continues unchanged as there are no significant negative impacts</li> <li>adjusts to account for the negative impacts</li> <li>continues despite potential for adverse impact or missed opportunities to advance equality (set out the justifications for doing so)</li> <li>stops.</li> </ul> </li> <li>Have your strategy, policy, plan, procedure and/or service proposal approved</li> <li>Publish your report of this impact assessment</li> <li>Monitor and review</li> </ul>	Submit to Quality, Safety and Experience Committee for approval	Medical Director	By end of 2019.	

