



SEARCH OF PATIENTS PERSON AND BELONGINGS POLICY AND PROCEDURE

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Documents to read alongside this Policy & Procedure	Mental Health Act 1983/2007 Code of Practice for Wales Mental Capacity Act 2005 Code of Practice Human Rights Act 1998 Equality Act 2010 Patients Property Policy Management of Patients/Visitors in Possession of Alcohol and/or Unprescribed/Unlawful Substances policy
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Author/Reviewee:	Divisional Nurse – Mental Health
Executive Lead:	Director for Corporate Governance
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1	05/03/2013	02/05/2013	New Document

SEARCH OF PATIENTS PERSON AND BELONGINGS POLICY

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1. INTRODUCTION

This policy and procedure describes the action that staff in Cardiff and Vale University Health Board (UHB) should take when considering the conducting of a personal search of a patient and/or their belongings.

The UHB is required to provide a safe and secure environment in which patients, staff and visitors may safely engage in a therapeutic regime. Additionally there is a need to protect all patients from harassment and exploitation and the opportunity to supply or keep prohibited item/s (e.g. weapons, unprescribed/unlawful substances)

2. POLICY STATEMENT

The UHB is committed to ensuring that the health, safety and welfare of staff, patients and visitors is protected at all times. However, from time to time patients may bring items onto UHB premises that present a risk to others e.g. offensive weapons, or present a risk to the individual patient e.g. alcohol, unlawful drugs. The UHB will ensure that staff are supported when they determine that a patient or their belongings should be searched.

3. AIM

The aim of the policy and procedure is to:-

- 3.1** Create a safe environment where everyone is treated with dignity and respect.
- 3.2** Ensure that the searching of patients is conducted in accordance with the law (e.g. MHA 1983, MCA 2005, HRA 1998 (ECHR), Equality Act 2010)
- 3.2** Reduce the risk of injury and untoward effects caused by the use of unlawful substances and / or alcohol.
- 3.3** Reduce the risk of injury to staff, other patients and visitors as a result of patients having unlawful substances, alcohol and / or offensive weapons in their possession.
- 3.4** Provide staff with clear guidance about actions to be taken when dealing with the suspected or actual possession of unlawful substances, alcohol and / or offensive weapons.

4. OBJECTIVES

The objectives of the policy and procedure are:-

- 4.1** To remove from inpatient settings items such as alcohol, unprescribed/unlawful drugs and / or offensive weapons, or articles that may be used as weapons.

- 4.2** To discourage the bringing of such prohibited items into inpatient settings / Health Environment.

A search should only be used when clinically necessary and/or for individual or ward safety, where alternative interventions have failed or were inappropriate at the time.

5. SCOPE

This policy and procedure is applicable within all UHB premises and relates to the search of patients who are aged 18 or above

6. RESOURCES

This policy largely reflects existing practice and therefore no additional resources are required.

7. TRAINING

It is not envisaged that any formal training will be required as a result of the development of this policy and procedure.

Mandatory training requirements require all staff to undertake appropriate training e.g. the protection of vulnerable adults, management of violence and aggression training (where appropriate)

Line managers will be responsible for cascading the policy and procedure to their staff, identifying any personal training needs and ensuring compliance with the policy.

8. FURTHER INFORMATION

Mental Health Act 1983/2007 Code of Practice for Wales
Mental Capacity Act 2005 Code of Practice
Human Rights Act 1998
Equality Act 2010
Patients Property Policy
Management of Patients/Visitors in Possession of Alcohol and/or Unlawful Substances policy

9. IMPLEMENTATION

This policy and procedure reflects existing practice and therefore can be implemented immediately.

10. EQUALITY IMPACT ASSESSMENT

The UHB is committed to ensuring that, as far as is reasonably practicable, the way it provide services to the public and the way it treats its staff, patients

and others reflects their individual needs and does not discriminate against individuals or groups.

An Equality Impact Assessment has been undertaken and feedback received on this policy and procedure and the way it operates. The UHB wanted to know of any possible or actual impact that this policy may have on any groups in respect of gender (including maternity and pregnancy as well as marriage or civil partnership issues), race, disability, sexual orientation, Welsh language, religion or belief, transgender, age or other protected characteristics. The assessment found that there was little impact to the equality groups mentioned. Where appropriate the UHB have taken or will make plans for the necessary actions required to minimise any stated impact to ensure that we meet our responsibilities under the equalities and human rights legislation.

11. AUDIT

The policy will be reviewed by a Review of Datix reports. A central register of searches should be kept, this should be linked with the incident reporting process.

12. DISTRIBUTION

The policy and procedure will be available via the UHB Intranet and Internet sites. Where staff do not have access to these sources the line manager must ensure that they are aware of the contents where appropriate.

13. REVIEW

The policy and procedure will be reviewed to reflect any changes in guidance/legislation or findings of audits undertaken. As a maximum it will be reviewed 3 years after the date of approval.



SEARCH OF PATIENTS PERSON AND BELONGINGS PROCEDURE

1. INTRODUCTION

This procedure describes the action that staff in Cardiff and Vale University Health Board (UHB) should take when considering the conducting of a personal search of a patient and/or their belongings.

The UHB is required to provide a safe and secure environment in which patients, staff and visitors may safely engage in a therapeutic regime. Additionally there is a need to protect all patients from harassment and exploitation and the opportunity to supply or keep prohibited item/s (e.g. weapons, unlawful substances)

Indicators that might lead to the decision to undertake a search would include:

- A patient with a known recent history of carrying and/or hiding an offensive weapon;
- A patient expressing the view that s/he intends to injure her/himself or another person with an implement;
- Information received from other patients, staff or visitors that the patient has an offensive weapon in their possession;
- A patient who is acting in a threatening and unpredictable manner who is reluctant to give any information or co-operate with search. ;
- There is reason to believe that the patient is in possession of items that are potentially dangerous to their own health and safety or that of others – for example, unprescribed/unlawful drugs, alcohol, offensive weapons or other unsafe items.

The searching of an individual patient or patient's property is a delicate procedure and should be managed with the utmost integrity and highest professional standards. It must be emphasised that it is a potentially provocative procedure and might be construed as degrading by the individual. This policy and procedure outline the steps that should be taken to facilitate the greatest practicable attention being paid to the dignity and welfare of patients at all times.

2. ROLES AND RESPONSIBILITIES

Legal issues

When considering searching a patient their legal status must be taken into account. Advice should be taken from the Mental Health Act Office/Mental Capacity lead if unsure if the patient is:--

- i) detained under MHA 1983;
- ii) not detained, with mental capacity to consent;
- iii) lacks capacity to consent

3. ALTERNATIVE INTERVENTIONS

Prior to undertaking a search of a patient or their belongings alternative approaches must have been exhausted, unless the situation is life threatening (e.g. use of weapon). This is due to the serious nature of undertaking a search and the potential harm to the therapeutic relationship.

Alternative approaches include:-

- Negotiating with the patient giving them the opportunity to identify the items that they have in their possession.
- Nursing separately where deemed necessary, specialising if necessary
- Accompanying staff allowing time for individual to hand over the item/s
- Giving time for the individual to express their concern.
- Contacting the police – this is essential if there is any potential risk to the safety of staff or others.

4. PRINCIPLES OF UNDERTAKING A SEARCH

The search procedure, which by its very nature is highly intrusive of a person's privacy and dignity, should not be exercised merely on a 'hunch' (Gunn 1992). The rights of the patient must be adhered to at all times. The member of staff must have reasonable grounds for suspecting that a patient is in possession of an article such as an offensive weapon or unprescribed/unlawful drugs or alcohol, which could be used to cause serious harm to self or others.

If staff suspect an informal patient (i.e. a patient who is not detained under MHA 1983) of possession of a harmful object the individual may be asked whether this is the case, and if they confirm this they can be asked to hand it over for safe keeping. The legal justification for such an action is to prevent a breach of the peace. The Police should be involved if the patient refuses to hand over the object. Police will be requested to attend to deal with the incident as staff cannot remove items without the consent of an informal patient unless they lack mental capacity to understand their actions or there is imminent harm to themselves or others.

A patient detained under Section 136 of the Mental Health Act 1983/2007 who is being assessed can be searched. The Police have powers to search a patient if they are suspected of being in possession of stolen or prohibited items

Routine and random searching of patients detained under the Mental Health Act 1983 may take place only in exceptional circumstances, (refer to Mental Health Act 1983/2007 Code of Practice for Wales, Chapter 21, p. 133, para 21.3 – e.g. Random searches should only occur in exceptional circumstances, such as potentially violent and/or dangerous situations.

Where the risks to the patient or others are considered to be very serious, assistance from the Police must be sought. This is likely to be when a patient is thought to be in possession of an offensive weapon or unprescribed/unlawful substances. Any such request for assistance from the Police should be identified, if possible, at the initial agreement to search stage.

Staff should be aware of the potential implications and outcomes of a search and should use clinical judgement in deciding the immediate and future management of the patient and their condition following the search.

5. TYPES OF SEARCH

This section details the different types of search that can be undertaken together with the different levels of consent that the patient must give.

- 5.1 Search of Ward/Department/Surrounding Area** - Not including patient's belongings or personal space. A patient's consent is not required for this search, but where appropriate it is good practice to inform patients that a search is about to take place.
- 5.2 Search of Patient's Property and Personal Space** – this includes: - bedroom furniture, cases, bags and bed space area.
- The patient must be fully informed of any decision to undertake a search of his/her room and property. Members of staff will always seek to secure the patient's consent and invite the patient to be present. These matters will be recorded in the clinical records by the respective members of staff.
 - The patient should always be offered the opportunity to have an independent person present – e.g. a friend, family member, or an advocate.
 - Two members of staff should be involved in the search and should be of the same sex as the patient wherever possible. Where this is not possible the reasons for not waiting until this could be achieved must be recorded e.g. threat to safety of patient or others if search not undertaken at that time. In any Health setting one nurse must be a First Level Registered Nurse (i.e.RGN, RMN). (also see patient property policy)
 - If unprescribed/unlawful drugs or substances are suspected the use of drug dogs should be considered and reference made to Appendix B of The Management of Patients/Visitors in Possession of Alcohol or Unprescribed/Unlawful Drugs Policy UHB policy.
 - When searching belongings, the patient must always be allowed to witness this.

- The search should be carried out taking extreme care not to damage and be respectful of all of the patient's belongings. Any damage should be fully documented and the patient advised and assisted in claiming for the loss or damage to any property.
- If belongings are removed, the patient must always be informed of where they will be kept. The police will be involved in this process. Any items or substances removed should be fully documented and the patient informed. The patient will be given a receipt for all items/substances that are removed.
- Unprescribed/Unlawful drugs should be disposed of in accordance with The Management of Patients/Visitors in Possession of Alcohol or Unprescribed/Unlawful Drugs Policy. The police will be involved in this process
- A comprehensive account of the incident must be recorded in the patient's clinical records, (PARIS notes in Mental Health, Community & Children & Women's services) and an incident form must be completed.

5.3 Search of Patient's Clothing

This type of search involves searching the patients clothing. It does not involve physically touching the patient. The principles detailed in 6. 1 & 6.2 below should be adhered to e.g. consent, independent person present, etc.

- The patient may be requested to turn out their pockets.
- The patient may be asked to remove clothes worn close to the body, (e.g. shirts, blouses, and trousers, underwear). In these circumstances the patient would be provided with a dressing gown to wear whilst his/her clothing was searched.

5.4 Personal Search

A personal search is where a patient is physically searched. The principles detailed in 9.2 above should be adhered to e.g. consent, independent person present, etc. Within the context of a personal search the following stages may be identified:-

- Looking for objects attached to skin, or concealed in the mouth or ears;
- The patient may be asked to remove superficial clothing that can be removed without impacting on their dignity, (e.g. coat, jacket, shoes);
- Touching the patient to look for objects. Wherever possible the patient should assist staff, thus reducing the need to touch the patient. An example of this is by asking the patient to run their fingers through their hair or to lift folds of skin.

5.5 Intimate Search

An intimate search includes the searching of body orifices (excluding mouth or ears). Intimate searches are deemed to be beyond the capabilities of the

mental health team and general hospital teams. Liaison with other agencies / specialist teams in the organisation may be necessary. Referral and contact with the SARC would be made.

5.6 Visitors

In environments where lockers are provided for visitors, these must be used. Visitors should be given an explanation as to why this is necessary and information regarding what they are allowed to take into the clinical environment. If visitors have items which they want to give to patients, these must be searched by at least two members of staff in the presence of the visitor. Any contraband items must be given back to the visitor to remove. If visitors refuse to leave their belongings in a locker, or if they refuse to allow staff to search items they intend to give to the patient, access to the clinical area should be denied. In such cases, an incident form must be completed, the senior member of staff on duty informed and the incident recorded in the patient's notes.

6. COMMUNICATION AND CONSENT

The patient should always be given the opportunity to consent to the undertaking of a search and they must be clear as to the reasons for undertaking the search. The following points must be considered and communicated to the patient.

- The patient should be kept informed of what is happening and why, prior to and throughout the search.
- If English is not their first language and/or they are not fluent in English an interpreter should be sought. However, if there is a genuine risk to the safety of the patient or others and a search is required immediately the search may proceed without an interpreter present.
- The special needs of patients' e.g. sensory impairment, learning difficulties must also be taken into account.
- The nature of the search and how it will proceed should be explained fully to the patient.
- If the patient refuses to agree to such a search being carried out, the Nurse in Charge, Consultant, Deputy or Senior Clinical Nurse, should consult to decide whether or not a search should be enforced.
- Cultural and religious issues must be identified when considering and undertaking a search. If the staff are unsure what these issues could be they must seek the advice of a senior member of staff. It may be necessary to consult the Equality adviser for the organisation. Out of hours contact would be made with senior manager on call who may need to contact the Executive on call for advice.
- Unless there are exceptional circumstances (i.e. patient unwell, demonstrating aggressive behaviour or would present a risk to the staff searching), patients must be asked if they wish to be in attendance when a search of their belongings is undertaken.

- The patient will be advised that the search is the minimum required to achieve the objective and that they have the right to ask for it to be stopped at any point.
- If a decision has been made to involve the police the rationale behind this should be explained to the patient.

The provisions of the Mental Capacity Act 2005 and the Mental Health Act 1983 should be considered as follows:-

6.1 Mental Capacity Act 2005

Where there is reason to doubt that the patient has capacity to consent to the search, then the five statutory principles of the Mental Capacity Act 2005 must be followed. An assessment of the patient's capacity must be conducted and the patient's best interests must be determined (unless there is an attorney under a LPA or a Court Appointed Deputy with appropriate powers). If it is found that it is in the patient's best interests to be searched, then a search can be made. A record of the capacity assessment and best determination must be made.

6.2 Mental Health Act 1983

The guidance set out in the Mental Health Act 1983/2007 Code of Practice for Wales, Chapter 21, must be followed

6.3 Searching Patients Without Consent

If a patient with capacity does not consent to a search, the most senior staff member on duty must make one of the following decisions (based on the principle of necessity {Gunn 1992}):-

- To search the patient against their will on the grounds that there is immediate risk of serious harm to self or others that necessitates immediate action. Necessity does not limit the action of search to emergency situations only (see pg 7), but extends to action taken in order to prevent serious harm to self or others. An example of this would be in removing an article such as a knife from a patient's pocket or unprescribed/unlawful drugs / alcohol;
- To delay the search and seek advice of the patient's consultant and / or the clinical manager or deputy;
- To involve the police.

A situation may arise where a patient with capacity undergoing a search procedure withdraws their consent during the search. The member of staff in charge of the procedure must then decide how to proceed. Consideration may be given to involve the police if necessary.

Any search carried out without the patient's consent must be carried out with the minimum force necessary. The Mental Health Act 1983/2007 Code of Practice for Wales identifies the basic principles for the use of restraint

- Be reasonable, justifiable and proportionate to the risk posed by the patient
 - Apply the minimum, justifiable level of restriction and/or force necessary to prevent harm to the patient or others
 - Be used for only as long as is absolutely necessary
 - Be carried out in a way that demonstrates respect for the patient's gender and cultural sensitivities
- (MHAct Code of Practice Chapter 19, para 19.25)

In a non mental health setting the above principles would apply in terms of only searching when necessary and involving more senior staff and the police where appropriate.

If a patient with capacity physically resists a search of either his / her person or property, a multidisciplinary decision by those present should be made as to the need to carry out a search using physical interventions, the police may be called in a non mental health setting. If the decision is not to proceed, then the following options should be discussed.

- Postpone the search, if safe to do so e.g. no immediate threat to the patient or others and discuss the issue with his / her care team at the first opportunity to decide on further action
- If the incident is of an important nature (danger to individual or others) and if there is the possibility of someone becoming injured (including the patient), the police should be notified and asked to provide assistance.

7. RECORD KEEPING

Details of all searches must be recorded in the patients clinical records and incident form completed. This should include:

- The risk which informed the decision to ask for permission/consent to search.
- The reasons why any decisions to enforce a search are made.
- The outcome of the search, including items/substances removed and their disposal. (These may be handed over to the police)
- Any damage caused to patient's belongings during the process of search and the steps taken to remedy this.
- The physical and psychological effects which are observed in relation to the patient and the care of that person managed accordingly. This may require ongoing entries into the notes.
- Times of searches, staff involved, names and numbers of police officers attending (if applicable).

8. POST SEARCH DEBRIEF

A review of the circumstances and outcome of a search must be undertaken after every search. This should involve all concerned including the patient involved. This will ensure that effective evaluation and best practice is promoted.

There should be support for patients and staff who are affected by the process of searching.

Where the findings of the review highlight issues that could be of benefit in another part of the UHB or highlight points that should be reflected in the review of this policy and procedure these will be communicated to the Divisional Team and the Quality and Safety structures