



HPFT

**Mental Health Act 1983
As amended by
Mental Health Act 2007**

**Hospital Managers Information Policy
Section 131, 132, 132A and 133**

Mental Health Act Code of Practice Chapter 4

HPFT Policy

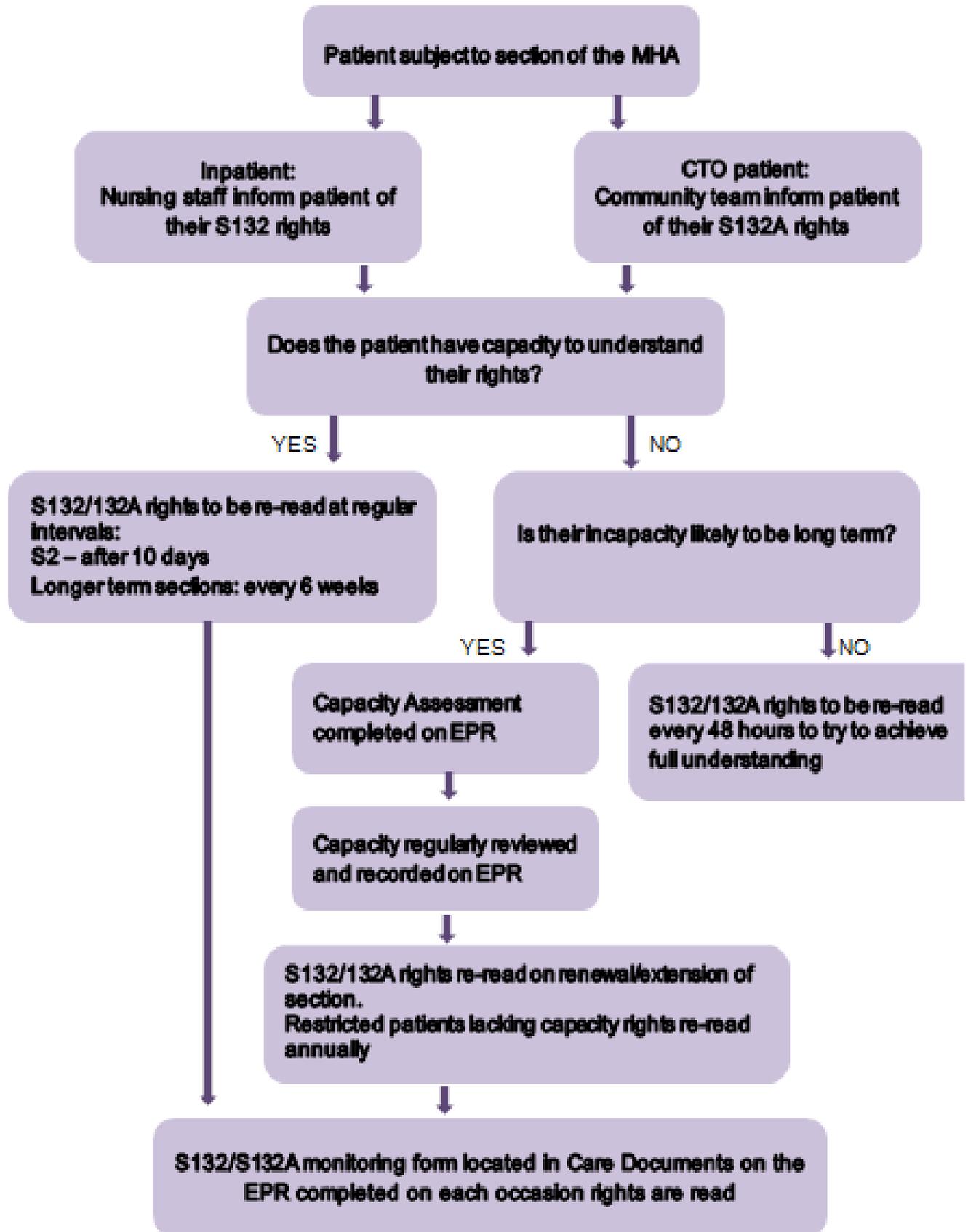
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Title of document	Hospital Managers Information Policy Section 131, 132, 132A and 133		
Document Type	Policy		
Ratifying Committee	Policy Panel		
Version	Issue Date	Review Date	Lead Author
5.1	04/05/2018	20/02/2020	MHA Quality Manager
Staff need to know about this policy because (complete in 50 words)	<p>It is the responsibility of individual staff working with patients to provide specific information to them and their Nearest Relative when detention in hospital or Community Treatment Order is implemented.</p> <p>It is vital that the staff recognise the importance of keeping comprehensive records of actions taken.</p>		
Staff are encouraged to read the whole policy but I (the Author) have chosen three key messages from the document to share:	<p>For those patients who have capacity to understand their rights it is the policy of HPFT to reiterate their rights under the MHA 1983 at least every 10 days for section 2 patients, and every 6 weeks, (Note: on first presentation of rights for any section, if there is a temporary incapacity to understand then the rights must be re-presented every 48 hours) for patients detained on longer term sections, ie section 3, 17A (CTO).</p> <p>Each repetition, without exception, must be documented on the S132 monitoring form located in Care Documents on the EPR.</p> <p>If a patient has a long-term lack of capacity to understand Section 132 rights, staff should document on the S132 form on the EPR that the patient is not likely to regain capacity to do so. In cases where the care team agrees it is not practicable to keep re-presenting rights, this should be recorded on the S132 form along with a record of a regular assessment of their capacity which must be carried out and documented on the Assessment of Capacity form on the EPR to ensure that this lack of understanding/capacity to understand still persists and is likely to remain so for the foreseeable future.</p>		
Summary of significant changes from previous version are:	<p>Change in process as the S132 monitoring form completed by HPFT staff at each presentation of rights is now a user defined form located in Care Documents on the Electronic Patient Record System (Paris)</p> <p>Clarification that if a patient has temporary incapacity to understand their rights it is the Trust's policy to re-present these every 48 hours until the patient is able to understand their rights or it is established that there is a long term incapacity to understanding S132 rights.</p>		

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SECTION 132/132A PRESENTATION OF RIGHTS FLOWCHART



1. Summary

The Mental Health Act 1983, and the amending 2007 Act (jointly “MHA 1983”) task the Hospital Managers of NHS Trusts with a duty to supply specific information to patients and their Nearest Relatives when detention in hospital or Supervised Community Treatment is implemented. Hospital Managers delegate these duties to Officers of HPFT. The Trust expects that this duty will be carried out with due regard to the guiding principles of the Code of Practice 2015 (CoP) (Appendix 1)¹

Comprehensive advice about the sharing of information in a more general sense is found in Chapter 4, CoP.

2. Objectives

The MHA requires hospital managers to take steps to ensure that patients who are detained in hospital under the MHA, or who are on a Community Treatment Order (CTO), understand important information about how the MHA applies to them, including:

- the correct information is given to patients and their nearest relatives
- which section of the MHA authorises their detention and the effects of that section
- information must be given in accordance with the requirements of the legislation, at a suitable time, in an accessible format and where appropriate with the aid of assistive technologies, interpretative and advocacy services
- information is provided in a format or language that the individual understands, ie, Braille, easy read or Moon²
- the people giving the information have received sufficient training and guidance and if relevant, specialist skills in relation to people with a learning disability, autism, children or young people
- a record is kept of the information given, including how, when, where and by whom it was given and an assessment of how well the information was understood by the recipient
- a regular check is made that information has been properly given to each patient and understood by them

3. Definitions

Section 132 MHA 1983.

Requires Hospital Managers to ensure that detained patients³ are given information relating to their detention under MHA 1983, both verbally and in writing, and that they understand the information.

Section 132A MHA 1983.

Imposes a similar duty to provide information, both verbally and in writing, to any patient subject to Section 17A Community Treatment Order (CTO) and to ensure that this information is understood by the patient.

Sections 132 and 132A do not apply to persons subject to Guardianship under Section 7 MHA 1983, nor to informal patients, nor to persons detained in police cells under Section 136.

¹ Mental Health Act 1983: Code of Practice, Chapter 1.

² Accessible Information Standard 2016

³ The term patient is used within this policy in order to be consistent with the legislation

Section 133 MHA 1983.

Requires that the same information given to the patient be given in writing to the patient's Nearest Relative, unless the patient or the Nearest Relative requests otherwise.

Accessible Information Standard 2016

The standard aims to make sure that people who have a disability, impairment or sensory loss are provided with information that they can easily read or understand with support so they can communicate effectively with health and social care services.

4. Duties and Responsibilities

The Trust is ensuring through this document that all staff are aware of their role in relation to presenting rights to patients.

Duties within the Organisation

It is the responsibility of the organisation's operational management to ensure policy distribution, implementation and compliance throughout the organisation.

Individual Staff working with patients

It is the responsibility of individual staff working with patients to provide specific information to them and their Nearest Relative when detention in hospital or Community Treatment Order is implemented. It is vital that the staff recognise the importance of keeping comprehensive records of actions taken in this respect as these records will be closely audited and inspected by both the Trust's Mental Health Legislation Department as well as external regulatory bodies including the Care Quality Commission.

Lead Directors

The Chief Executive is ultimately responsible for ensuring that the Trust meets its responsibilities with regard to the delivery of services. The Lead Directors for this policy are the Executive Director of Quality and Medical Leadership and the Executive Director, Quality and Safety/Deputy CEO.

Key Groups with a Policy Role

The Mental Health Act Quality and Policy Group meeting agree this policy and any changes that need to be added as legislation changes.

5. Information to be given to informal patients:

5.1 The following information must be provided to all informal patients in hospital:

- Their legal position, ie that they must be allowed to leave the hospital if they wish, unless they are going to be detained under the MHA.
- Their consent must be sought on any treatment to be given.
- How to make a complaint.
- Local policies and arrangements regarding movement around the hospital and its grounds.

6. Information to be given to detained patients:

6.1 **Section 132(1)** provides that:

the Section of the Act under which the patient is detained must be specified and the effect of that provision explained. Care should be taken to ensure that a patient does not assume that he/she will be discharged automatically upon the expiry of the current detention period, nor that detention will automatically be renewed; details of rights of appeal against detention must be explained, with regard to both the First Tier Tribunal Services and the Mental Health Act Managers; this should include mention of the Hospital Managers' duty to refer the patient to the First Tier Tribunal Services and/or to the Mental Health Act Managers at intervals if he does not himself make an application. Patients must be informed that they can access legal advice at no personal financial cost to themselves and be offered help to do so. They should also be informed that help is available to them from an IMHA (Independent Mental Health Advocate) and how they can be contacted.

6.2 **Section 132(2)(3)** provides that information on the following matters (where relevant) must be provided both orally & in writing;

the powers of the Hospital Managers, Responsible Clinician (RC), and Nearest Relative in relation to discharge including the RC's right to bar discharge by the Nearest Relative under Section 25(1);

consent to treatment; including the circumstances in which they have the right to refuse consent, the circumstances in which they can be treated without their consent, and the role of Second Opinion Appointed Doctor (SOAD) and the circumstances in which they may be involved;

the existence of the Code of Practice;

the role of the Care Quality Commission. In addition to this basic information, patients must be made aware of the periodic visits made by the Commission to hospitals and the opportunities they may have to meet Commissioners. The Hospital Managers should ensure that detained patients are aware of their rights to complain to the Commission about their detention, treatment or general care or in cases where they are dissatisfied with the investigation of a complaint made by them to the Hospital Managers;

the patient's discharge, when it occurs

the withholding of detained persons' correspondence.

6.3 Written information is given to patients by means of the appropriate Department of Health leaflet entitled “Your rights under the Mental Health Act 1983 “. This information must be given to all detained patients at the time of their admission or, if this is not practicable, as soon after admission as possible. It is available in English, easy read and in various foreign language formats and should be present in the nursing office of every Unit.

6.4 Detained patients will be sent a letter as soon as possible after admission. It will confirm to the patient:

the section under which they are detained;

the date when detention under section began;

the reason for detention, e.g. assessment or treatment;

the maximum duration of this period of detention, e.g. 28 days or 6 months;

the name of their Responsible Clinician;

that their detention may be ended at any time if it is no longer needed or the criteria are no longer met;

that a copy of the section papers is available upon request, from nursing staff, unless based on advice from the authors of the documents the information would adversely affect the health or wellbeing of the patient or others. Personal information about third parties must be removed.

The Care Quality Commission leaflet (Code – CQC-100) entitled “How we protect the rights and interests of people who are detained in hospital” will also be enclosed. This contains information about the Commission, consent to treatment for both medication and Electro-Convulsive Therapy (ECT) and how to make a complaint.

6.5. Detained patients should be told that their Nearest Relative will receive written copies of the information given to them as patients. Discussion should take place with the patient so that they can express their views about sharing this information and raise any concerns or objections to HPFT staff. The discussion about what information the patient is happy to share and what they would like to remain private should take place at the earliest opportunity, and must be recorded on the S132/132A monitoring form located in Care Documents on the Electronic Patient Record (EPR).

6.6. Patients should be given, as soon as possible, the essential legal and factual grounds for their detention and informed of their right to seek legal advice and assisted to do so, if required.

7. Information to be given to community patients:

7.1. Section 132A(1) requires the Trust to ensure that a patient discharged from hospital under CTO is given and understands the following information before their discharge:

what it means to be subject to a CTO in terms of legal status, mandatory conditions, conditions imposed by the care team, maximum length of the current period of the CTO;

the possible consequences of non-compliance with those conditions and information about recall and revocation to hospital;

advice about SOAD visits for those whose treatment falls under Section 58 or Section 58A in accordance with Part 4A of the Act;

rights of appeal to both the First Tier Tribunal Services and the Mental Health Act Managers against a CTO. Patients must be informed that they can access legal advice without any personal financial costs to themselves and be offered help to do so.

The advantages of using local Advocacy Services, including Independent Mental Health Advocates, and how they can be contacted.

- 7.2. CTO patients should be informed of the maximum length of the current CTO and that it may be ended at any time if it is no longer required or the criteria are no longer met.
- 7.3. CTO patients will receive a copy of the CTO documentation, unless based on the advice of the authors of the documents, the information disclosed would adversely affect the health or wellbeing of the patient or others. It may be necessary to remove personal information about third parties.
- 7.4. CTO patients should be told that their Nearest Relative will receive written copies of the information given to them as patients. Discussion should take place with the patient so that they can express their views about sharing this information and raise any concerns or objections to HPFT staff. The discussion about what information the patient is happy to share and what they would like to remain private should take place at the earliest opportunity, and must be recorded on the S132/132A monitoring form.
- 7.5. CTO patients must be given information orally about recall to hospital prior to the recall taking place. The patient can nominate another person to be notified of the decision.
- 7.6. CTO patients must be given information about how the MHA applies to them at the time they are recalled to hospital.
- 7.7. CTO patients must also be informed of the reasons for the revocation of a CTO.
- 7.8. Written information is given to patients by means of the appropriate Department of Health leaflet entitled "Your rights under the Mental Health Act 1983 ". This information must be given to all CTO patients at the time of the commencement of their CTO. It is available in English, easy read and in various foreign language formats and should be present in the nursing office of every Unit.
- 7.9. Patients should be given, as soon as possible, the essential legal and factual grounds for their detention and informed of their right to seek legal advice and assisted to do so, if required.

7.10. If a conditionally discharged patient is recalled to hospital, at the time of recall the nursing staff must provide a brief oral explanation of the Secretary of State's reasons for recall, unless there are exceptional reasons for not doing so, ie patient is too distressed.
Full reasons for recall should be provided, both orally and in writing, within 72 hours of admission.

8. Information to be given to Nearest Relatives

Broadly speaking, the Nearest Relative is defined in Section 26(1) as the person who ranks highest on the following list:

- Husband, wife or civil partner OR someone who, at the date of admission, had been living as such with the patient for six months or more;
- son or daughter;
- father or mother;
- brother or sister;
- grandparent;
- grandchild;
- uncle or aunt;
- nephew or niece.

The Nearest Relative may be the patient's carer.

Please see HPFT Nearest Relative policy for further guidance on Nearest Relative issues.

9. Discharge from detention under MHA 1983

- 9.1. **Section 132/132A and Section 133** of the Act require Hospital Managers:
in every case of discharge from hospital (EXCEPT where the patient has been discharged under Section 23(2)(a) by the Nearest Relative), to take such steps as are practicable to give the NR a copy of any information given to the patient in writing, unless the patient or NR requests otherwise. This applies to both detained and CTO patients;
to inform the NR of a patient's discharge from detention in hospital under the Act within seven days if practicable;
to inform the NR of a patient's discharge from detention to CTO when the information is given to the patient, or within a reasonable time afterwards.
- 9.2. S133 does not apply in cases where disclosing information to the NR would not be "practicable", ie. it would have a detrimental impact on the patient disproportionate to any possible advantage to be gained from doing so. Disclosure under such circumstances would constitute a breach of the patient's right to privacy under Article 8 of the European Convention on Human Rights. The risk is especially high when the NR is not someone whom the patient would have chosen had s/he been free to do so.
- 9.3. If the detained patient is not ordinarily resident in Britain, for example a tourist or a student, the NR will receive the information specified in S133 even though s/he is based abroad.

10. Ensuring Best Practice

Information must be given as soon after admission as is practicable. This, of course, will depend upon the patient's state of mind and ability to understand and absorb the information.

- 10.1. Every patient is an individual and should be treated as such, in accordance with the Respect and Dignity Principle (**Chapter 1 Code of Practice 2015**). When presenting rights it is important to consider factors such as gender, race, religious affiliation and sexual orientation; for example, a woman may not feel comfortable enough to listen to what is being said to her if she is surrounded by male nurses and medical staff unknown to her. Where practicable, these factors should also inform the choice of interpreter if one is needed.
- 10.2. Barriers to effective communication may be caused by many different factors. The obvious example is when English is not the patient's first language, but any patient may have difficulty understanding technical terms and jargon, or sometimes simply find it difficult to concentrate for very long. There may be a hearing or visual impairment, or difficulty in reading or writing. Be aware that a patient's cultural background may also be very different from your own and that this can lead to misunderstandings.
- 10.3. Effective communication is essential; it ensures appropriate care and respect for patients' rights. Communication of a patient's rights should take place in a quiet and private environment without distractions. Use clear, straightforward, unambiguous language and check that the patient has understood the information offered. If not, is there a problem that can be overcome by using other ways of presenting it, such as Braille, Moon or easy-read leaflets or the services of a signer or interpreter? (Please refer to the HPFT interpreting policy.) It is important to present the information in a way that can be understood by the individual patient. Children and young people will need to have information explained in a way that they can understand and in a format appropriate to their age.

Independent Mental Health Advocates (IMHAs) can help patients to understand questions and information given to them and also assist patients when communicating their views to staff.

- 10.4. For those patients who have capacity to understand their rights, it is good practice to offer further reminders regularly throughout their detention. It is the policy of Hertfordshire Partnership University NHS Foundation Trust to reiterate their rights under the MHA 1983 at least every 10 days for section 2 patients, and every 6 weeks for patients detained on longer term sections, ie section 3. Each repetition, without exception, must be documented on the S132 monitoring form located in Care Documents on the EPR (Appendix 2).
- 10.5. If a patient is not able to understand information about detention at first presentation and this incapacity is likely to be transient or short term, staff must show an ongoing commitment to offering both oral and written information. This will entail regular discussions and meetings with the patient. Each attempt must be recorded using the S132 monitoring form on the EPR (Appendix 2).
- 10.6. It is the Trust's policy to re-present rights every 48 hours to those patients who have a temporary incapacity to understand their rights under the Mental Health Act 1983.

- 10.7. If a patient has a long-term lack of capacity to understand Section 132 rights, staff should document this on the S132 monitoring form on the EPR (Appendix 2) that the patient is not likely to regain capacity to do so. In cases where the care team agrees it is not practicable to keep re-presenting rights, this should be recorded on the S132 monitoring form on the EPR along with a record of a regular assessment of their capacity which must be carried out and documented on the Assessment of Capacity form located in Care Documents on the EPR to ensure that this lack of understanding/capacity to understand still persists and is likely to remain so for the foreseeable future.
- 10.8. Consideration is given to the implications of treating those lacking capacity to consent to treatment in the 2015 Code of Practice Chapter 24 and also in the HPFT Consent to Treatment Policy and the Mental Capacity Act policy.
- 10.9. Carers and advocates should be involved, where the patient wishes, or if the patient lacks the capacity to understand information relating to decisions regarding their care and treatment.
- 10.10. Professionals involved in the patient's care should identify all individuals who provide care and support and ensure that health and care services assess those carers' needs.⁴ Local authorities also have a duty to assess needs for support of both parent carers or disabled children and young carers.⁵
- 10.11. A fresh explanation of the patient's rights should be considered where:
- The patient is considering applying to the Tribunal, or when they become eligible to apply again.
 - The patient requests the hospital managers to consider discharging them, or such a request is refused.
 - The rules in the MHA 1983 about their treatment change.
 - A significant change in treatment is being considered.
 - A CPA review is scheduled.
 - Renewal of detention, or extension of CTO is being considered.
 - On renewal of detention or extension of a CTO.
 - On deciding to recall a community patient to revoke a CTO.
 - On recalling a conditionally discharged patient to hospital.

11. Responsibilities

11.1. Hospital Nursing Staff

The Hospital Managers delegate the function of giving information to the patient to officers of the Trust. In most cases this will be the admitting nurse or named nurse allocated to the patient's care, unless there is a reason why someone else should undertake this task. Nursing staff will keep in mind the guiding principles of the Code of Practice 2015 when giving the required information.

The nursing staff will ensure that any communication needs for the patient and their Nearest Relative are identified and recorded on the EPR and reviewed at regular intervals.

⁴ Care Act 2014

⁵ Children and Families Act 2014

The nursing staff will hold the details and arrange for signers/interpreters to attend at units when necessary.

Nursing staff must ascertain as soon as possible whether the patient objects to their Nearest Relative being informed of their rights under Section 133. This information should be passed to the MH Legislation Dept at the earliest possible opportunity.

It is the responsibility of the nurse acting as delegated officer to ensure that the proper procedure as described above is followed and the appropriate S132 monitoring form completed on the EPR (see Appendix 2, Patients' Rights Monitoring Form Section 132 and Section 132A.)

11.2. **Community Teams**

It is the responsibility of the Care Co-ordinator to ensure that the patient is reminded at intervals of the rights extended to patients in the community under a CTO and that the S132 monitoring form located in Care Documents on the EPR is completed each time the patient's rights are presented (see Appendix 2 Patients Rights Monitoring Form Section 132 and Section 132A).

The Care Co-ordinator will ensure that any communication needs of the patient and their Nearest Relative are identified and recorded on the EPR and that this information is regularly reviewed.

The Care Co-ordinator will also ensure that patients are kept advised about the status of their CTO (e.g. any intention to renew or rescind it).

11.3 **Mental Health Act Office**

The Hospital Managers delegate to the Mental Health Act staff their function of providing the required written information to the patient's Nearest Relative, subject to the patient's consent. The MHA staff will ensure that the relevant information is supplied in all cases where that is appropriate.

The MHA staff will ensure that a supply of the most commonly used foreign language and Braille rights leaflets are available.

The MHA staff will advise the CTO patient in writing of a proposed renewal of the Community Treatment Order and enclose details of review by Hospital Managers and First Tier Tribunal Service.

The MHA staff will check the S132 monitoring form on the EPR for communication needs identified by the nursing staff for the patient and their Nearest Relative and ensure appropriate communications are undertaken.

The MH Legislation Dept will audit, through the reporting system on the EPR, compliance by wards/units and Community Teams with this policy. Any failings will be reported to the appropriate ward/unit/ team Manager.

11.4. **Ward/Unit/Team Managers**

It is the responsibility of the Ward, Unit or Community Team Manager to ensure that all reminder letters are followed up and that all staff follow the precepts of the policy.

Ward, Unit or Community Team Managers are responsible for ensuring that nurses carry out their duties in an appropriate manner under the relevant sections of the Act.

12. Training and Awareness

Course	For	Renewal Period	Delivery Mode
Basic MHA training	Nursing staff, support workers inpatient unit, community nursing staff	Every 3 years	Taught course 1½ hours Or E-learning

13. Process for monitoring compliance with this document

Monitoring schedule:

The organisation can demonstrate compliance with the key objectives as follows:

Key process for which compliance or effectiveness is being monitored	Monitoring method (i.e. audit, report, on-going committee review, survey etc.)	Job title and department of person responsible for leading the monitoring	Frequency of the monitoring activity	Monitoring Committee responsible for receiving the monitoring report/audit results etc.	Committee responsible for ensuring that action plans are completed
Managers ensure that staff are making detained patients aware of their rights under MHA1983	Completion of S132 form on the EPR	Ward/Team Managers	Ongoing with each patient	MH Legislation Dept	MHAQP Group
Audits to monitor compliance	Completion of S132 monitoring form on the EPR	MH Legislation Dept	Six monthly	MHA Quality and Policy Group	
Bi-Annual Compliance Report	Collation of S132 audit information	MHA Quality Manager	Six monthly	MHA Quality and Policy Group	

14. Embedding a culture of equality and respect

The Trust promotes fairness and respect in relation to the treatment, care and support of service users, carers and staff.

Respect means ensuring that the particular needs of ‘protected groups’ are upheld at all times and individually assessed on entry to the service. This includes the needs of people based on their age, disability, ethnicity, gender, gender reassignment status, relationship status, religion or belief, sexual orientation and in some instances, pregnancy and maternity.

Working in this way builds a culture where service users can flourish and be fully involved in their care and where staff and carers receive appropriate support. Where discrimination, inappropriate behaviour or some other barrier occurs, the Trust expects the full cooperation of staff in addressing and recording these issues through appropriate Trust processes.

Access to and provision of services must therefore take full account of needs relating to all protected groups listed above and care and support for service users, carers and staff should be planned that takes into account individual needs. Where staff need further information regarding these groups, they should speak to their manager or a member of the Trust Inclusion & Engagement team.

Where service users and carers experience barriers to accessing services, the Trust is required to take appropriate remedial action.

Service user, carer and/or staff access needs (including disability)	The statutory requirements of the MHA do not discriminate against any individual, the guiding principles within the Code of Practice cover all aspects of Equality and RESPECT.
Involvement	The statutory requirements of the MHA do not discriminate against any individual, the guiding principles within the Code of Practice cover all aspects of Equality and RESPECT. Patients must be given the opportunity to understand and exercise their rights whilst detained under the MHA. The involvement of carers, family members and other people who have an interest in the patient’s welfare should be encouraged (unless there are particular reasons to the contrary) and their views taken seriously.
Relationships & Sexual Orientation	The statutory requirements of the MHA do not discriminate against any individual, the guiding principles within the Code of Practice cover all aspects of Equality and RESPECT.
Culture & Ethnicity	The statutory requirements of the MHA do not discriminate against any individual, the guiding principles within the Code of Practice cover all aspects of Equality and RESPECT.
Spirituality	The statutory requirements of the MHA do not discriminate against any individual, the guiding principles within the Code of Practice cover all aspects of Equality and RESPECT.
Age	The statutory requirements of the MHA do not discriminate against any

	individual, the guiding principles within the Code of Practice cover all aspects of Equality and RESPECT.
Gender & Gender Reassignment	The statutory requirements of the MHA do not discriminate against any individual, the guiding principles within the Code of Practice cover all aspects of Equality and RESPECT.
Advancing equality of opportunity	The statutory requirements of the MHA do not discriminate against any individual, the guiding principles within the Code of Practice cover all aspects of Equality and RESPECT.

15. Version Control

Version	Date of Issue	Author	Status	Comment
V3	October 2008	Directorate Manager Mental Health Legislation	Superseded	Archived
V4	November 2013	Mental Health Act Quality Manager	Superseded	Put into new Policy format and fully Reviewed.
V4.1	April 2015	Mental Health Act Quality Manager	Superseded	Updated to reflect changes to Code of Practice 2015.
V5	November 2016	Mental Health Act Quality Manager	Superseded	Reviewed and updated to include Accessible Information Standard.
V5.1	February 2018	Mental Health Act Quality Manager	Current	Reviewed and updated to reflect changes to the recording process using the S132 monitoring form on the EPR.

16. Relevant Standards

- a) **Mental Health Act 1983, as amended Mental Health Act 2007.**
- b) **Mental Health Act Code of Practice 2015.**
- c) **CQC Essential Standards of Quality and Safety.**
- d) **Equality and RESPECT:** The Trust operates a policy of fairness and RESPECT in relation to the treatment and care of service users and carers; and support for staff.

The 2012 Policy Management System and the Policy Format:

- **Policy Template** is the essential format for most Policies. It contains all that staff need to know to carry out their duties in the area covered by the Policy.
- **Operational Policies Template** provides the format to describe our services ,how they work and who can access them
- **Care Pathways Template** is at the moment in draft and only for the use of the Pathways Team as they are adapting the design on a working basis.

17. Associated Documents

This Policy should be used in conjunction with the following HPFT policies all of which can be accessed via the staff intranet.

- HPFT – Mental Health Act Consent to Treatment Policy
- HPFT – Mental Capacity Act Policy
- Mental Health Act Policies and Procedures

18. Supporting References

- Mental Health Act 1983
- Mental Health Act 2007
- Mental Health Act Code of Practice 2015
- Mental Capacity Act 2005
- Mental Capacity Act 2005 Code of Practice
- Blackstone's Guide to the Mental Health Act 2007
- Dept of Health Website
- CSIP Briefings
- IMHAP Member Briefings
- Care Act 2014
- Accessible Information Standard 2016

19. Consultation

Mental Health Act Quality and Policy Group
Directorate Manager MHA Legislation

Part 4 Appendices

Appendix 1

Guiding principles – MHA Code of Practice

It is essential that all those undertaking functions under the Act understand the five sets of overarching principles which should always be considered when making decisions in relation to care, support or treatment provided under the Act.

The MHA Code of Practice stresses that the principles should be considered when making decisions under the Act. Although all are of equal importance the weight given to each principle in reaching a particular decision will depend on context and the nature of the decision being made.

The five overarching principles are:

- **Least restrictive option and maximising independence**
Where it is possible to treat a patient safely and lawfully without detaining them under the Act, the patient should not be detained. Wherever possible a patient's independence should be encouraged and supported with a focus on promoting recovery wherever possible.
- **Empowerment and involvement**
Patients should be fully involved in decisions about care, support and treatment. The views of families, carers and others, if appropriate, should be fully considered when taking decisions. Where decisions are taken which are contradictory to views expressed, professionals should explain the reasons for this.
- **Respect and dignity**
Patients, their families and carers should be treated with respect and dignity and listened to by professionals.
- **Purpose and effectiveness**
Decisions about care and treatment should be appropriate to the patient, with clear therapeutic aims, promote recovery and should be performed to current national guidelines and/or current, available best practice guidelines.
- **Efficiency and equity**
Providers, commissioners and other relevant organisations should work together to ensure that the quality of commissioning and provision of mental healthcare services are of high quality and are given equal priority to physical health and social care services. All relevant services should work together to facilitate timely, safe and supportive discharge from detention.

Terminology	How it is to be understood	Exceptions
Must	Reflects legal obligations which it is essential to follow	No exceptions
Should	For those to whom this is statutory guidance see paragraphs II – V For those to whom it is not statutory guidance VI – VII	See paragraphs II – VII. Any exceptions should be documented and recorded including the reason for this. Patients, their families and carers, regulators, commissioners and other professionals may ask to see this
May/could/can	Reflects guidance to be followed wherever possible	Good practice but exceptions permissible



S132 Patient Rights Monitoring Form Mock Up

Header Details More actions

Type	s132 Patient Rights Monitoring		
Date started	<input type="text"/>	Del date	<input type="text"/>
Time started	<input type="text"/>	Del time	<input type="text"/>
Reason for assess.	<input type="text"/>	Outcome	<input type="text"/>
Location	<input type="text"/>	Planned comp date	<input type="text"/>
Team	<input type="text"/>	Reason for delay	<input type="text"/>
Carried out by	<input type="text"/>	Link info	<input type="text"/>
Recorded by	<input type="text"/>	Assessment ID	<input type="text"/>
		Referral ID	<input type="text"/>
Goal at time of assessment	<input type="text"/>		

s132 Reading Patient Rights Rules More actions

ALL attempts to give the patient information both on admission and during detention must be recorded on separate forms. Rights should be re-read on a regular basis, even when the patient understands.
(Minimum requirement: S2 every 10 days, longer term sections 6 weekly, if long term incapacity re-read at renewal and for restricted patients lacking capacity – re-read annually)

Section Details More actions

Patient Name	<input type="text"/>	Section	<input type="text"/>	Date of Detention	<input type="text"/>	Ward	<input type="text"/>
Is an interpreter or any other aid to understanding required?				<input type="checkbox"/> Yes <input type="checkbox"/> No			
Please specify requirement.		This field only shows if yes is selected above					
<input type="text"/>							
Does the patient object to information about their section being given to their NR?				<input type="checkbox"/> Yes <input type="checkbox"/> No			

Patients Rights More actions

**** State if patient is unwilling or refusing to sign the form**
Patients should be informed (in your own words and in a way which they understand) of the following:

- | | | |
|---|--|--|
| | | Understood |
| 1 | The provision of the Act under which they are detained, the effect of those provisions and the factual grounds for their detention | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure |
| | Please provide details of barrier/Difficulty encountered – Only displayed if no or not sure is selected | <input type="text"/> |
| 2 | The maximum length of the current period of detention or CTO | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure |
| | Please provide details of barrier/Difficulty encountered – Only displayed if no or not sure is selected | <input type="text"/> |
| 3 | Their detention or CTO may be ended at any time if no longer required, or the criteria for detention are no longer met | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure |

	Please provide details of barrier/Difficulty encountered – Only displayed if no or not sure is selected	<input type="text"/>
4	They will not be automatically discharged when the current detention period ends	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure
	Please provide details of barrier/Difficulty encountered – Only displayed if no or not sure is selected	<input type="text"/>
5	Their detention or CTO will not automatically be renewed or extended when the current detention period ends	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure
	Please provide details of barrier/Difficulty encountered – Only displayed if no or not sure is selected	<input type="text"/>
6	Their right to apply to the Mental Health Tribunal Service for a review of detention and the right to free legal representation	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure
	Please provide details of barrier/Difficulty encountered – Only displayed if no or not sure is selected	<input type="text"/>
7	Their right to apply to Mental Health Act Hospital Managers for a review of detention	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure
	Please provide details of barrier/Difficulty encountered – Only displayed if no or not sure is selected	<input type="text"/>
8	Information on consent to treatment and their right to be involved with the treatment plan	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure
	Please provide details of barrier/Difficulty encountered – Only displayed if no or not sure is selected	<input type="text"/>
9	Their right to have support from an Independent Mental Health Advocate, IMHA	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure
	Please provide details of barrier/Difficulty encountered – Only displayed if no or not sure is selected	<input type="text"/>
	Does the patient want to be referred to the IMHA service?	<input type="checkbox"/> Yes <input type="checkbox"/> No
	Date of Referral – field only shown is yes selected above	<input type="text"/>
10	The rights (if any) of their NR to discharge them and what can happen if the RC does not agree	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure
	Please provide details of barrier/Difficulty encountered – Only displayed if no or not sure is selected	<input type="text"/>
11	Community Patients the effect of the CTO, including conditions and the circumstances in which the RC may recall them to hospital (if applicable)	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure
	Please provide details of barrier/Difficulty encountered – Only displayed if no or not sure is selected	<input type="text"/>
12	Reasons for Revocation of a CTO (if applicable)	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure
	Please provide details of barrier/Difficulty encountered – Only displayed if no or not sure is selected	<input type="text"/>

13 Please provide details of barrier/Difficulty encountered – Only displayed if no or not sure is selected Yes No Not Sure

Please provide details of barrier/Difficulty encountered – Only displayed if no or not sure is selected

14 The role of the CQC and how to complain to the CQC Yes No Not Sure

Please provide details of barrier/Difficulty encountered – Only displayed if no or not sure is selected

Date of next reading – This can be Mandatory if required

Capacity More actions

Is there long term incapacity to understand their rights Yes No

If yes answered Pop up appears telling staff to complete assessment of capacity

Please provide details – only shows if yes is selected above

Referral to IMHA required. Please provide date that the referral was made. – only shows if yes is selected above

Attached Search More actions

File	Document Type	Document Date	Issue	Title	Recorded By	Recorded On	Recorded At
No data to display							

See 0 of 0

Authorise Assessment More actions

Authorise Form Authorised By Date

Comments

we are...

you feel...

Our Values

Welcoming

✔ Valued as an individual

Kind

✔ Cared for

Positive

✔ Supported and included

Respectful

✔ Listened to and heard

Professional

✔ Safe and confident

Our  values

Welcoming Kind Positive Respectful Professional