HPFT

Independent Mental Health Advocacy (IMHA)

Mental Health Act 1983 as amended by Mental Health Act 2007

Guidance on the Role of Independent Mental Health Advocacy (IMHA) and Duties of Staff to Support the Work of the IMHAs

HPFT Policy

Version	4.1
Executive Lead	Executive Director Quality and Safety
Lead Author	Mental Health Act Quality Manager
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Approved By	Mental Health Act Quality and Policy Group
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Target Audience	❖ All staff involved with those who are Qualifying Patients for the IMHA Service

Title of document	Independent Mental Health Advocacy (IMHA)		
Document Type	Policy		
Ratifying Committee	Mental Health Act Quality and Policy Group		
Version	**Issue Date**	**Review Date**	**Lead Author**
4.1	08/09/2020	24/10/2021	Mental Health Act Quality Manager
Staff need to know about this policy because (complete in 50 words)	The Mental Health Act 2007(MHA) provides qualifying patients in England access to the help of an Independent Mental Health Advocate (IMHA). Hertfordshire Partnership University NHS Foundation Trust is strongly supportive of the right of every qualifying patient to be made aware of, and supported to have access to, the help of an IMHA. This policy provides guidance to HPFT staff on the role of an IMHA. It also sets out the procedures to be followed by the Mental Health Act (MHA) Office and HPFT staff, to enable IMHAs to carry out their work effectively.		
Staff are encouraged to read the whole policy but I (the Author) have chosen three key messages from the document to share:	IMHAs will help qualifying patients understand the legal provisions to which they are subject under the MHA, and the rights and safeguards to which they are entitled. This could include assistance to qualifying patients in obtaining and understanding information. IMHAs will also help qualifying patients to exercise their rights. **Qualifying Patients** – those who are detained under the MHA, (except under Sections 4, 5(2), 5(4), 135 or 136), conditionally discharged restricted patients, those subject to Guardianship under MHA or on a Community Treatment Order (CTO). Plus those considered for a treatment to which Section 57 applies and those under 18 being considered for ECT or any other treatment to which Section 58A applies. A qualifying patient may request the support of an IMHA at any time. IMHAs must comply with any reasonable request to visit and interview a qualifying patient if the request is made by the patient's Nearest Relative, an AMHP, or the patient's responsible clinician. Referral to POhWER should be made by telephoning POhWER on 0300 456 2370. There is no statutory timescale for response times. The locally commissioned service has agreed that POhWER will make an initial response to the qualifying patient or to the referrer within 2 working days of receipt of referral. For Qualifying Patients on Section 2 – direct contact will made with the Qualifying Patient within 5 working days. For all other Qualifying Patients direct contact will be made within 10 working days. Referrals to Rethink Mental Illness should be made by telephoning them on 0300 790 0559 or sending an email to essexadvocacy@rethink.org		
Summary of significant changes from previous version are:	During the COVID-19 pandemic IMHAs are not visiting inpatient settings to conduct face to face meetings with service users – contact is made via phone and virtually. In exceptional circumstances, such as due to communication limitations, the IMHA, on agreement with their manager, will visit the ward using PPE and observing hygiene and distancing guidelines. The IMHA will only visit one ward in a day to prevent contamination across different wards and units.		

PART 1 – Preliminary Issues:

1. Summary

The Mental Health Act 2007(MHA) provides qualifying patients in England access to the help of an Independent Mental Health Advocate (IMHA). Hertfordshire Partnership University NHS Foundation Trust ("HPFT" or "the Trust") is strongly supportive of the right of every qualifying patient to be made aware of, and supported to have access to, the help of an IMHA.

This policy provides guidance to HPFT staff on the role of an IMHA. It also sets out the procedures to be followed by the Mental Health Legislation Department (MHLD) and HPFT staff, to enable IMHAs to carry out their work effectively.

2. Objectives

The purpose of this document is to ensure that all Trust staff dealing with patients subject to the MHA are aware of Independent Mental Health Advocacy Services (IMHA) and the right of qualifying patients to access an IMHA. This document outlines the procedure that should be followed by staff to ensure that the Guiding Principles as specified in the MHA Code of Practice, (Appendix 1) are adhered to.

3. Definitions

Independent Mental Health Advocate (IMHA) – a specialist advocate who is trained specifically to work within the framework of the MHA.

Qualifying Patients – those who are detained under the MHA, (except under Sections 4, 5(2), 5(4), 135 or 136), conditionally discharged restricted patients, those subject to Guardianship under MHA or on a Community Treatment Order (CTO). Plus those considered for a treatment to which Section 57 applies and those under 18 being considered for ECT or any other treatment to which Section 58A applies.

Non-qualifying patients can access general advocacy services through HertsHelp – telephone: 0300 123 4044 or email info@hertshelp.net.

4. Duties and Responsibilities

4.1 Duties

The Trust is ensuring through this document that all staff are aware of their role in relation to IMHAs and those subject to the MHA.

4.2 Duties within the Organisation

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

4.3 Individual Staff working with patients

It is the responsibility of individual staff working with patients to ensure that they are aware of the right to an IMHA by a patient subject to the MHA.

4.4 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 Director for this policy is the Executive Director, Quality & Safety.

4.5 **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. Commissioning IMHA Services

5.1 To ensure that the IMHA services reflect the diversity of the local population and that they are as independent as possible, they are commissioned by local authorities, as follows:

- For detained patients, by the local authority for the area in which the hospital in which they are detained is located.
- For community treatment order (CTO) patients, by the local authority for the area in which their responsible hospital is located.
- For people subject to guardianship, by the local authority which is acting as the guardian or, if the patient has a private guardian, by the local authority for the area in which the private guardian lives.

5.2 Local authorities should ensure that IMHAs understand equality issues and that there are sufficient numbers of IMHAs with a specialised understanding of the specific needs of particular groups and that IMHAs can communicate effectively with them, ensuring that any barriers to effective and timely support are removed.

This includes:-

- Patients from minority cultural or ethnic backgrounds
- Patients with physical impairments and/or sensory impairments and/or
- Patients with learning disabilities and/or autistic spectrum disorders.

5.3 IMHA services are provided by POhWER for HPFT units within Hertfordshire and also those located at Little Plumstead Hospital, Norfolk. IMHA services are provided by Rethink Mental Illness for Lexden Hospital, Essex.

6. The role of the IMHA

6.1. An IMHA is a specialist type of mental health advocate granted specific roles and responsibilities under the MHA. They provide an additional safeguard for patients subject to the Act. They enable patients to participate in decision making, for example, by supporting patients to express and communicate their views. They are commissioned by the relevant local authority as identified by the Act. IMHA services do not replace other advocacy /support services such as Independent Mental Capacity Advocates (IMCAs) or representatives for patients who lack capacity. They are intended to work in harmony with these services. (See Appendix 5)

6.2. IMHAs should be independent of any person who has been professionally involved in the patients' medical treatment.

6.3. It is important to note that the same advocate may be qualified to act as an IMHA and an IMCA although these are different roles. For detailed functions of an IMCA see Chapter 10 MCA 2005 Code of Practice

See Chapter 7 Care Act 2014 Statutory Guidance for Implementation for guidance on independent advocacy under the Care Act.

6.4. IMHAs will help qualifying patients understand the legal provisions to which they are subject under the MHA, and the rights and safeguards to which they are entitled. This could include assistance to qualifying patients in obtaining information and understanding any of the following:

- Their rights under the Act
- The rights which other people (e.g. nearest relative) have in relation to them under the Act
- The particular parts of the Act that apply to them and which therefore make them eligible for advocacy
- Any conditions or restrictions to which they are subject
- Any medical treatment that they are receiving or might be given
- The reasons for the treatment (or proposed treatment) and
- The legal authority for providing that treatment, and the safeguards and other requirements of the Act which would apply to that treatment.

6.5. IMHAs will also help qualifying patients to exercise their rights. This help may include:

- Supporting qualifying patients in accessing information and better understanding what is happening to them
- Supporting qualifying patients in exploring options, making better-informed decisions, and actively engaging with decisions that are being made
- Supporting qualifying patients to articulate their own views
- Speaking on the patients behalf and representing them e.g. accompanying them to review meetings/MHA Managers hearings.
- Supporting patients in any other way that will ensure they can participate in the decisions that are made about their care and treatment. This also includes helping them to make applications to the Tribunal

7. Duty to inform patients and Nearest Relative about IMHA Services

7.1. The MHA places a duty on the “responsible person" to provide verbal and written information about IMHA services to qualifying patients.

7.2. If a patient lacks the capacity to decide whether or not to obtain help from an IMHA, the managers of the Hospital should ask an IMHA to attend so that the IMHA can explain what they can offer to the patient directly.

7.3. “Responsible person” includes managers of the Hospital, the responsible clinician, the local social services authority, the registered medical practitioner or approved clinician.

Duty to provide patients with information about advocacy services:

Type of Patient	Steps to be taken by	As soon as practicable after
Detained patient	The managers of the hospital in which the patient is liable to be detained. This function has been delegated by the Managers to the MHL Department in the Trust.	The patient becomes liable to be detained
Guardianship patient	The responsible local social services authority. This function has been delegated to Approved Mental Health Professionals (AMHPs)	The patient becomes subject to guardianship
Community patients (Subject to CTO's)	The managers of the responsible hospital. This function has been delegated by the Managers to the MHL Department in the Trust	The patient becomes an community patient
Conditionally Discharged patient	The patient's responsible clinician. This function has been delegated to the MHL Department in the Trust	The patient is conditionally discharged
Informal patient	The doctor or approved clinician who first discusses with the patient the possibility of them being given the section 57 or 58A treatment in question. This function has been delegated to the MH L Department in the Trust, but the doctor must inform the MHL department so they are aware.	That discussion (or during it)

7.4. The responsible person should be aware that certain patients within each of the patient 'types' may need particular encouragement and assistance to seek the support of an IMHA. This includes people who lack or have limited capacity (where an IMCA should be introduced to the patient), have sensory impairments, are from minority ethnic communities or are under the age of 18.

7.5. The responsible person must inform the qualifying patient of their right to an IMHA. If the patient decides to access the IMHA service they can ask the responsible person to refer them to the IMHA service or contact the IMHA services directly themselves.

7.6. The responsible person should also ensure information about the IMHA service and how it can be contacted is made available, where practicable, to the Nearest Relative, unless the qualifying patient requests otherwise.

7.7. A standard paragraph has been approved to include in letters to inform Qualifying Patients and Nearest Relatives of their right to an IMHA and information about the IMHA service. This is attached in Appendix 2. Copies of such letters should be attached to the Qualifying Patients MHA records by the Mental Health Act Dept. Any such letter should be copied to the local area Mental Health Legislation Department for such inclusion.

8. Referrals to IMHA Service

8.1. A qualifying patient may request the support of an IMHA at any time.

8.2. A qualifying patient may choose to end the support they are receiving from an IMHA at any time.

8.3. IMHAs must comply with any reasonable request to visit and interview a qualifying patient if the request is made by the patient's Nearest Relative, an AMHP, or the patient's responsible clinician.

8.4. Patients may refuse to be interviewed and do not have to accept help from an IMHA if they do not want it.

8.5. AMHPs and Responsible Clinicians should consider requesting an IMHA to visit a qualifying patient if they think that it would be in the patient's best interests and that they may benefit from an IMHA's visit but is unable or unlikely for whatever reason to request and IMHA's help themselves.

8.6. Particular consideration should be given to patients who lack capacity. Where the capacity of a qualifying patient is in doubt, reference should be made to the Mental Capacity Act Code of Practice and the Hertfordshire Policy on Mental Capacity. The Hertfordshire County Council Adult Care Services pro-forma to make a capacity assessment is attached in Appendix 3. North Essex services follow the Essex MCA policy and complete the Essex forms.

8.7. If AMHPs and Responsible Clinicians are intending to request an IMHA on behalf of a qualifying patient, they should, wherever practicable, first discuss the idea with the patient and give the patient the opportunity to decide for themselves whether to request and IMHA's help. The request should not be made if they know that the patient does not want the IMHA's help.

8.8. Referral to POhWER should be made by telephoning POhWER on 0300 123 4044. There is no statutory timescale for response times. The locally commissioned service has agreed that POhWER will make an initial response to the qualifying patient or to the referrer within 2 working days of receipt of referral. For Qualifying Patients on Section 2 – direct contact will made with the Qualifying Patient within 5 working days. For all other Qualifying Patients direct contact will be made within 10 working days.

8.9. Referrals to Rethink Mental Illness should be made by telephoning them on 0300 790 0559 or sending an email to

essexadvocacy@rethink.org - Website address, www.rethinkessexadvocacy@rethink.org

9. IMHA access to patients, professionals and to records

9.1. When helping qualifying patients, IMHAs have the right to see and interview a patient in private. All relevant sites will ensure that IMHAs have access to private space when they are meeting with qualifying patients. If a Qualifying Patient is under observation or requires a member of staff to be present for any other reason this will be discussed with the IMHA. The IMHA should not question such arrangements. If the Qualifying Patient is not in agreement with the arrangements, the IMHA will not go ahead with the meeting. The IMHA will remain in contact with the Qualifying Patient and agree a date to review the arrangements for interview with the Qualifying Patient and with ward staff.

9.2. IMHAs should be able to attend meetings between patients and the professionals involved in their care and treatment when asked to do so by patients. It is important to check with qualifying patients if they want their IMHA invited to meetings associated with their care and treatment, such as ward rounds, discharge planning meetings, CPAs etc.

9.3. IMHAs have the right to visit and speak to any person who is currently professionally concerned with a patient's medical treatment, provided it is for the purpose of supporting that patient with regard to IMHA issues. Professionals should remember that the normal rules on patient confidentiality apply to conversations with IMHAs. Professionals should be careful not to share confidential information with IMHAs unless the patient has consented to disclosure or disclosure is justified on grounds of risk. Qualifying Patients will be provided with a standard letter authorising an IMHA to act on their behalf, to have access to information about the treatment (verbal) and to records – see Appendix 4. A copy of this document should be provided to professionals before discussions regarding the patient's treatment are held. This should be forwarded to the Mental Health Legislation Department for inclusion on the patient's MHA file.

9.4. Where the qualifying patient consents, IMHAs have a right to see any clinical or other records relating to the patient's detention or treatment in hospital or relating to any after-care services provided to the patient. Qualifying Patients will be provided with a standard letter authorising an IMHA to act on their behalf, to have access to information about the treatment (verbal) and to records – see Appendix 4. For records held in HPFT, access should be requested via the Unit Manager or Community Team Manager, who should be provided with a copy of the authorisation letter. A copy should be forwarded to the Mental Health Legislation Department for inclusion within the MHA file. Managers can delegate the function of supporting access to any officer of the Trust. The PARIS team will provide a password for the IMHA to access Electronic Patient Records on a read-only basis at the request of Record Holders.

9.5. IMHA's right of access to relevant records extends to information which would have been withheld from the patient under the Data Protection Act 2018, because it may cause serious harm to the physical or mental health or condition of the patient or any other person. In such cases, the record holder must make the IMHA aware of any information that would have been withheld from the patient for this reason, so the IMHA knows what should not be disclosed to the patient.

9.6. Where the records of qualifying patients are held across partnership agencies, the IMHA will approach HCC or other relevant agencies for access to records.

9.7. There may be cases where a qualifying patient verbally requests an IMHA to act on their behalf but declines to sign the authorising letter. This should not preclude access to information or records. The verbal views of the patient regarding agreement to such access should be clearly recorded on the Electronic Patient Record (EPR) and copy of such record highlighted to the Mental Health Legislation Department.

9.8. Where the qualifying patient does not have the capacity (or in the case of a child, the competence) to consent to an IMHA having access to their records, the holder of the records must allow the IMHA access if they think that is appropriate and that the records in question are relevant to the help to be provided by the IMHA. In order to answer this:

- the Ward Manager or Community Team Manager who holds the records should ask the IMHA to explain what information they think is relevant to the help they are providing to the patient
- why the IMHA thinks it is appropriate for them to be able to see the information.
- The person who holds the records will need to consider all the facts of the case
- whether disclosure of confidential patient information is justified
- what is best for the qualifying patient

Such decisions should be taken in accordance with the Mental Capacity Act 2005 (MCA) (or, for children under 16, the common law) like any other decision in connection with the care or treatment of patients who cannot make the decision for themselves. Where the Qualifying Patient does not have capacity to consent to IMHA access to records, the Capacity Assessment form should be completed to evidence the Qualifying Patient does not have capacity to consent to such access to records – attached in Appendix 3.

Record Holders should start from a position that it is likely to be in the patient's interests to be represented by the IMHA. However, they should take into account what is known about the patient's wishes and feelings including Advance Decisions and Advance Statements. The decision making should be clearly recorded on the (EPR).

If the person who holds the records is unable to reach a decision they should contact the local Mental Health Legislation Department for further advice.

9.9. The Supplementary Guidance on access to patient records under Section 130A-D of the MHA gives more detailed information on access to patient records.

10. Patient choice and representation

10.1. IMHAs are not the only people who may support and represent a qualifying patient. Patients may choose to be represented by a general mental health advocate, a family member or friend, or to represent themselves, instead of using the IMHA service. However it should be explained to the qualifying patient and the chosen representative that the rights and duties given to an IMHA can only apply to people formally working as IMHAs as part of the commissioned IMHA service. Staff should

ensure that an Advocate exercising the rights and duties of an IMHA is formally working as an IMHA as part of the commissioned IMHA service.

10.2. The involvement of an IMHA does not affect a patient's rights to seek advice from a lawyer or any entitlement to legal aid.

10.3. There may be times when a qualifying patient may also be entitled to an Independent Mental Capacity Advocacy (IMCA) service. Please refer to the Hertfordshire Policy on Mental Capacity for further details.

11. Discharge from IMHA Service

Users of the IMHA service will be discharged from the IMHA service when they cease to be Qualifying Patients. They may continue to utilise other Advocacy services to meet ongoing advocacy needs as appropriate. IMHA services can cease at the request of the service user before they cease to be qualifying patients. POhWER reserve the right to withdraw advocacy support from service users in certain circumstances being if an IMHA is threatened either physically or verbally by the qualifying patient; if the support requested by the qualifying patient could be carried out by a more appropriate agency; if the support requested is not considered to be a request for IMHA services or falls outside the work of the IMHA service.

12. COMPLAINTS PROCEDURE

The Trust will forward any complaints about the IMHA service to POhWER.

13. Training and Awareness

Course	For	Renewal Period	Delivery Mode
Mental Health Act overview training	All staff that deal with patients subject to the MHA	Every 3 years	E-Learning

14. Process for monitoring compliance with this document

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
Issues raised via JCT, Practice Governance Leads in Trust	IMHA Monitoring Meeting	Joint Commissioning Team	Monthly	IGC and Policy Panel	QRMC

15. 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)	Patients should be informed of the support that an advocate can provide and that IMHAs have appropriate training and skills to support the patient effectively including where a patient has particular needs. **Qualifying Patients** – those who are detained under the MHA, (except under Sections 4, 5(2), 5(4), 135 or 136), conditionally discharged restricted patients, those subject to Guardianship under MHA or on a Community Treatment Order (CTO). Plus those considered for a treatment to which Section 57 applies and those under 18 being considered for ECT or any other treatment to which Section 58A applies.
Involvement	The IMHA service is available to all qualifying patients. General advocacy services are available to non-qualifying patients.
Relationships & Sexual Orientation	IMHA services are available to all qualifying patients regardless of relationship and sexual orientation.
Culture & Ethnicity	IMHA services are available to all qualifying patients regardless of culture and ethnicity.
Spirituality	It is important for staff to have a broad understanding of how different religions and denominations will view mental health and learning disabilities. For information around any of this staff can contact the Trust Spiritual Care Team on 01923 633296.
Age	IMHA services are provided for all qualifying patients over the age of 18. The provision of services for patients under 18 years of age are currently being agreed.
Gender & Gender Reassignment	IMHA services are available to all qualifying patients regardless of gender. Where staff are unsure of how to approach this, they are advised to contact the Equality & Diversity team at equality@hpft.nhs.uk
Advancing equality of opportunity	Staff have a responsibility to challenge any discrimination they may witness and report back in accordance with risk management and incidents processes.

Part 3 – Document Control & Standards Information

Every procedural document will require a document control information section which will contain the following:

16. Version Control

Version	Date of Issue	Author	Status	Comment
V1	Oct 2009	Practice Governance Lead	Superseded	New Policy
V1.1	Nov 2011	Mental Health Act Quality Manager	Superseded	Minor Changes
V2	31st July 2013	Mental Health Act Quality Manager	Superseded	Put into new Trust format and reviewed
V3	24th April 2015	Mental Health Act Quality Manager	Superseded	Updated in line with Code of Practice April 2015
V4	24th October 2018	Mental Health Act Quality Manager	Superseded	Minor changes
V4.1	08th September 2020	MHA Quality Manager	Current	Update to include information on visiting during COVID-19 pandemic

17. Relevant Standards

a) NHSLA Risk Management Standards-Mental Health & Learning Disability.
1.2 Policy on Procedural Documents

b) 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:
The PMS requires all Policy documents to follow the relevant Template

- **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.
- **Guidance Template** is a sub-section of the Policy to guide Staff and provide specific details of a particular area. An over-arching Policy can contain several Guidance's which will need to go back to the Approval Group annually.

18. Associated Documents

HPFT Policy on Mental Capacity Act 2007
HPFT Policy Management of Complaints

19. Supporting References

Mental Health Act 1983 and 2007
Mental Health Act Code of Practice 2015
Mental Capacity Act 2005
Mental Capacity Act Code of Practice 2007
Independent Mental Health Advocates – Supplementary Guidance on access to patient records under section 130B of the Mental Health Act 1983 – DOH, 30 April 2009. Care Act 2014

20. Consultation

Executive Director Quality & Safety	Mental Health Legislation Dept
PohWER	Directorate Manager MH Legislation
Inclusion & Engagement Team Manager	

Part 4 Appendices

Appendix 1

Guiding Principles – MHA Code of Practice, Chapter 1

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.

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

Appendix 2

Standard Paragraph to be included in letters to inform Qualifying Patients and Nearest Relatives of their right to an IMHA and information about the IMHA service: You have a right to an Independent Mental Health Advocate (also called an “IMHA”) who does not work for this organisation. The IMHA can help you understand what it means for you to be detained under the Mental Health Act and can explain the rights you have. They can speak to your care team on your behalf if you want them to do so. They can help you to get more information and answers to any other questions you may have about your detention and your treatment. You can contact the Independent Mental Health Advocate yourself, using the numbers given in the attached leaflet which explains all about IMHAs, or you can ask me to do it for you if you would prefer that.

Appendix 3

Hertfordshire Multiagency Mental Capacity Assessment Form

A record of mental capacity assessment (for persons aged 16 years and over)

Based on the Mental Capacity Act (2005)

A person must be assumed to have capacity unless it is established that they lack capacity to make a particular decision at the point in time the decision needs to be made. A person's capacity must not be judged simply on the basis of the age, appearance, condition or an aspect of their behaviour. It is important to take all possible steps to try to help the person to make the decision themselves and to give information or explanations in terms they can understand. A person can lack capacity if they have an impairment/disturbance affecting the mind or brain and that impairment/disturbance means that the person is unable to make a decision at the appropriate time. Capacity can vary over time and depending on the decision, so capacity should be reassessed appropriately. A decision may seem unwise does not mean that the person does not have capacity to make it.

Name of Relevant Person		Name of person carrying out the mental capacity assessment (Print name)	
Date of birth		Job title of assessor	
Unique identifying number		Date assessment started	
Address Or use patient ID sticker		Role	

As decision maker you are assessing the person's mental capacity to make this particular decision at this particular time. If there is more than one decision to be made they must be assessed and recorded separately.

Clearly state the decision to be made:

Do you need to involve anyone to help you to communicate with the person? Do you need anyone else to provide information or give their opinion? Please give the name and status of anyone who assisted with this assessment (Please include IMCA details if one is involved)

Name	Status	Contact Details

STAGE 1 – DETERMINING IMPAIRMENT OR DISTURBANCE OF THE MIND OR BRAIN

The Act requires assessors to have "reasonable belief" that a person lacks capacity in relation to a decision. If there is an established diagnosis of mental illness, learning disability, or some other condition then it is sufficient to confirm an "impairment or disturbance of the mind or brain".

Q1. Is there an impairment of, or disturbance in the functioning of the persons mind or brain? (e.g. symptoms of alcohol or drug use, delirium, concussion following head injury, conditions associated with some forms of mental illness, dementia, significant learning disability, long term effects of brain damage, confusion, drowsiness or loss of consciousness due to a physical or medical condition)	Response		Evidence
	Yes	No	If Yes record symptoms, behaviour and any relevant information
	☐	☐	

If you have answered **Yes** to Question 1, **PROCEED TO STAGE 2**

If you have answered **NO** to Question 1, there is no such impairment or disturbance and thus **THE PERSON DOES NOT LACK CAPACITY** within the meaning of the Mental Capacity Act 2005
Sign/date form, record the outcome within the person's case records **DO NOT PROCEED ANYFURTHER.**

STAGE 2 – ASSESSMENT			
Having determined impairment or disturbance (Stage 1), you now need to complete your assessment and form your opinion as to whether the impairment or disturbance means that the person is unable to make the decision at the time the decision needs to be made? Every effort must be made to provide the relevant information in a way that is most appropriate to help the person understand it.			
Describe the practical actions and steps you have taken to assist the person to make this specific decision. Have you provided any aids to assist the person to understand (for example easy read leaflets, large print, enabled the person to be at ease, consider the location and timing; relevance of information communicated; the communication method used; and the involvement of others?)			
1. Is the person able to understand the information relevant to the decision to be made? Do they understand the nature of the decision? The reason why the decision is needed? The likely effects of deciding one way or another, or making no decision at all?	**Response** Yes ☐	No ☐	*You must provide evidence of the steps you have taken and how you came to your opinion*
2. Is the person able to retain the information for long enough to make an effective decision? People who can only retain information for a short while must not be automatically assumed to lack the capacity to decide – it depends on what is necessary for the decision in question. Different methods may be needed to help someone retain information e.g. written information	☐	☐	
3. Is the person able to use or weigh up the information as part of the decision making process? Sometimes people can understand information however they should be able to understand the advantages and disadvantages of the decision to be made.	☐	☐	
4. Is the person able to communicate their decision? All steps must be taken to aid communication. Communication does not need to be verbal.	☐	☐	
If the person was found to have capacity, state their decision (in their own words)			
If you have answered **Yes** to Q1 to Q4, the person is considered, on the balance of probability, to **HAVE the mental capacity to make this particular decision at this point in time.**			
Sign/date this form and record the outcome within the person's case records. **DO NOT PROCEED TO MAKE A BEST INTERESTS DECISION**			
If you have answered **NO** to any of the questions, proceed to **Q5**			
Q5. Overall, do you consider on the balance of probability, that there is sufficient evidence to indicate that the person lacks the capacity to make this particular decision at this point in time? You should now proceed to make a Best Interest Decision.	*Please provide details of the outcome of your assessment*		
Signature		**Date of assessment**	
Date for review of Mental Capacity for this decision if required.			

Appendix 4

Hertfordshire Partnership University NHS Foundation Trust
Letter of Authorisation to share information with Independent Mental Health Advocate (IMHA)

To: Mental Health Act Department
I am a patient who has a legal right to an Independent Mental Health Advocate and I have been sent a letter explaining that I have this right:
My details:
Name: …… Date of Birth: …….
Home Address: ……..
……...
Name of hospital ward or unit (if you are in hospital): ……..
……...

I confirm that I have asked my Independent Mental Health Advocate

(Please put their name in here) ……..to act on my behalf.

I want to give him/her permission to view some or all of my health and social care records that you hold: (please tick one box and complete dates if ticking the first box)
He/she can view my records □

from this date …….. …. to ……. ……..this date

OR

He/she can view all of my records □

I am also allowing the following staff to have a **verbal discussion** with my Independent Mental Health Advocate about the care and treatment that I am receiving:
My doctor (name) _____ □

My nurse (name) _____ □

My social worker (name) _____ □

My occupational therapist (name) _____ □

My care co-ordinator (name) _____ □

My approved mental health professional (Name) _____ □

Other person (name) _____ □

Only tick the box if you are happy for these staff to discuss your care and treatment with the Independent Mental Health Advocate.

Signed: …… Date: ……

MHL Dept – circulate a copy of this to the ward/unit and the RC. Also copy in any of the staff that have been ticked

IMHA

What is an Independent Mental Health Advocate (IMHA)

An IMHA is an additional safeguard for patients who are subject to the Mental Health Act (MHA). They are trained specifically to work within the framework of the MHA and enable patients to participate in decision-making. An IMHA is independent of any person who has been professionally involved in the patient's treatment

Who is eligible to access IMHA services?

Anyone that is detained under the MHA. As well as those detained in hospital, patients currently on leave, AWOL, subject to Guardianship, Community Treatment Orders or conditional discharge are also entitled to access the service. These patients are known as "qualifying patients".

Informal patients that are being considered for a treatment to which S57 applies and any patient under the age of 18 where ECT is being considered.

What access and information should IMHAs be allowed?
Remember all disclosure must be in the patient's best interest

IMHAs should be able to:
Access wards and units on which patients are resident and meet the patient in private unless the patient objects or where it may be inappropriate.
Meet or speak to any person who is currently professionally concerned with a patient's treatment for the purpose of helping the patient as their IMHA.
With the patient's consent, view any records relating to the patient, where the patient does not have the capacity or competence to consent to access, the record holder must allow access if they think that it is appropriate.
Records must not be disclosed if that would conflict with a decision made on the patient's behalf by the patient's attorney or deputy, or by the Court of Protection.

Who is not eligible to access IMHA services?

Informal patients, excluding those above and any patients currently detained under Sections 4, 5, 135 or 136.


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