NHS
South Central
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NHS Foundation Trust

Mental Health Policy

South Central Ambulance Service NHS Foundation Trust
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DOCUMENT INFORMATION

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1. Introduction

South Central Ambulance Service NHS Foundation Trust (the Trust) is committed to delivering an excellent standard of care to patients with Mental health conditions. As a Trust we recognise the increasing important role the ambulance service have in both medical and with mental health care and will treat both equally, compassionately, and holistically.

The principles underlying this policy are in accordance with the Mental Health Act 1983 (MHA) Code of Practice: (Department of Health [DH] 2015); Mental Capacity Act 2005 (MCA) Code of Practice (DH, 2007), Human Rights Act (1998) and the Equality Act 2010. Also attached to the policy as appendices are the learning disability strategy and dementia strategy. These often overlap and are interlinked so are directly referenced within the policy. The delivery, monitoring and evaluation of all aspects of mental health, dementia and learning disabilities will be encompassed within the Trust overarching strategy linked to the NHS long term plan priorities for the ambulance sector. Accountability and upward reporting will be through mental health projects group for new initiatives and mental health steering group for existing initiatives, therefore linkiung this policy to the transformation plans.

It is the underlying aim of this policy, and associated strategy, to ensure that patients' safety, rights to dignity and privacy are balanced and maintained at all times.

2. Abbreviations

Mental Health Act 1983 (Amended 2007) (MHA).
Mental Capacity Act 2005 (MCA).
Department of Health NHS long term plan (LTP) Mental health investment standards (MHIS)
Approved mental health professionals (AMHP's)

3. Scope

This guidance is for all staff working within South Central Ambulance Service NHS Trust who are involved in the care, treatment and support of people who are experiencing a mental health crisis, relevant to role.

All NHS Trusts and Local Authorities who care for people who have been detained under the MHA are required to ensure that practices and procedures are compliant with the associated codes of practice, and that all staff receive training relevant to their role within the organisation.

All ambulance clinicians have a duty to be aware of, and act in accordance with, the relevant Codes of Practice specific to their clinical roles.

4. Aim

The purpose of this policy is to help ensure that health professionals are able to understand and comply with the law and guidelines relating to the care, welfare, safety, treatment and transportation of patients with mental health conditions.

This policy must be read and followed by all staff who are working for, or on behalf of, the Trust (on a paid or voluntary basis).

5. Roles and Responsibilities

5.1 Trust Board

The Trust Board has responsibility and accountability for ensuring the provision of the appropriate resources required to implement this policy. The Board, Committee and Meeting structure is at Appendix 1.

5.2 Chief Executive

The Chief Executive has overall responsibility for ensuring that systems for the safe and appropriate use of the MHA and MCA are followed.

5.3 Executive Director

The Executive Director of Patient Care is the board member responsible for the MCA.

5.4 Managers and Supervisors

The Clinical Lead for Mental Health and Learning Disability is responsible for managing the processes and training for the safe and appropriate use of both the MHA and MCA specific to ambulance service areas of responsibility within the Trust. This will be developed in partnership with education leads and reported through the Executive Director of Patient Care to the Trust Board for this purpose.

The Operations Directors and Heads of Operations, including PTS managers and 111 leads are responsible and accountable for the day to day safe and appropriate use of the MCA and MHA aspects and must ensure that copies of the Mental Capacity Act 2005 code of practice along with all guidance and training materials are available to their staff.

5.5 All Trust Staff

All staff have a responsibility to ensure they are familiar with and understand the policy and any associated procedures, ensuring their application and compliance with legislation when caring for patients in crisis.

Clinical staff have a responsibility to maintain their competency and to ensure their familiarity with changes to legislation/therapeutic guidelines as they are adopted by the Trust.

6. Definitions

The MHA defines Mental illness as “any disorder or disability of the mind”. This includes functional mental illness (such as depression), organic mental illness (such as dementia) and learning disability.

Patients with a learning disability will only be treated as suffering from a mental disorder for certain purposes of the Act, if it is associated with abnormally aggressive or seriously irresponsible conduct or co-existing with acute mental illness.

Apart from learning disability the Act does not distinguish between different forms of mental illness and therefore applies to all mental illness, including all types of personality disorder.

Dependence on alcohol or drugs is not considered to be a disorder or disability of the mind (MHA). The Trust does however recognise that addictions and dependance are often closely linked with mental health conditions.

The Mental Capacity Act 2005 (MCA) defines Mental Capacity as “the ability of an individual to make decisions regarding specific elements of their life”.

- This includes the ability to make a decision that affects daily life – such as when to get up, what to wear or whether to go to the doctor when feeling ill – as well as more serious or significant decisions.
- It also refers to a person’s ability to make a decision that may have legal consequences – for them or others. Examples include agreeing to have medical treatment, buying goods or making a will.

7. Key Elements

7.1 Developing Mental Health Care Provision

The Trust will work with other agencies in order to improve safe, integrated, high quality care for patients with a mental illness.

The Trust will continue to collaborate with providers and commissioners to establish effective patient pathways related to mental health care consistent with MHIS and the NHS LTP. This includes but is not limited to mental health provider Trusts, Acutes, Police, AMHP’s, commissioners, ICS’s and the third sector.

The Trust will continue to collaborate with providers and commissioners to establish highly effective feedback from patients experience and learn from any untoward incidents.

7.2 Information sharing.

It is recognised that information sharing plays a key role in safe working practice and there is evidence that patients, public or staff have come to harm when services do not openly share the information they have.

The need to distinguish between the principles of confidentiality and the need to share information must be in accordance with legislation and the guidance provided by the Trust under latest information governance polices and processes.

For all new initiatives related to partnership collaboration with key providers new service specification, memorandums of understanding and standard operating procedures will be developed in collaboration. These will go through the Trust governance process through patient safety group. Existing examples of these include but are not limited to telephone triage, operational response, MHA transport, frequent caller system plans and joint simulated education plans.

All staff will adhere to the Trust Confidentiality policy at all times, seeking advice if needed.

7.3 The Mental Health Act 1983 (MHA).

The Mental Health Act 1983 (as amended by the Mental Health Act 2007) is the law under which a person can be admitted, detained and treated in hospital against their wishes. The Act covers the rights of people while they are detained, how they can be discharged from hospital and what aftercare they can expect to receive. The Act applies in England and Wales.

7.4 Roles and responsibilities under the Mental Health Act.

7.4.1 Approved Mental Health Professional (AMHP).

Local Social Service Authorities (LSSAs) are allowed under legislation to approve a range of registered and professionally qualified mental health professionals to act as an Approved Mental Health Professional (AMHP). Individuals who can act as an AMHP are:

- Registered social workers.
- First level nurses whose field of practice is mental health or learning disabilities.
- Registered occupational therapists.
- Registered psychologists.

AMHPs are responsible for:

- Making the application for a patient to be detained.
- Organising the safest least restrictive method of transport of the patient when a place has been found.
- Completing an initial risk assessment.

A range of other professional roles are outlined in the Act however, as they do not usually have a direct relationship with the ambulance service, they have not been described here.

7.4.2 The Ambulance Service.

The MHA Code of Practice clearly defines the responsibilities of the ambulance service in the conveyance of patients detained under the MHA. The Code of Practice aims to ensure the individual's right to the maintenance of their dignity and privacy by all health care providers involved in the delivery of care.

The *main* role for the ambulance service under the MHA is to provide transport (and immediate care of any physical/medical needs) for patients who have been detained (i.e. "sectioned"); this permits restraint if required. The Trust recognise that frontline operational staff are not currently trained in any restraint techniques. This should be explained to the AMHP at the point of booking transport within relevant SOP's. In rare circumstances where there is an active risk of abscondence AMHP's should explore alternative options of dedicated or secure transport.

Patients should always be transported in a compassion focused manner which is most likely to preserve their dignity and privacy and is consistent with managing any risk to their health and safety or to other people.

This applies in all cases where patients are compulsorily transported under the Act, including:

- Taking patients to hospital to be detained for assessment or treatment.
- Transferring patients between hospitals.
- Returning patients to hospital if they are absent without leave.
- Taking community patients or patients who have been conditionally discharged to hospital on recall.

7.4.3 Detention under the Mental Health Act.

The MHA allows for the detention of patients that have been formally assessed or for the purposes of the assessment and treatment of the patient's mental health. A brief overview of sections is outlined below. Detailed resources and practical advise has been developed through a blended learning approach to all staff who may be involved in decision making and or transport under both the MHA and MCA.

Ambulance clinicians have **<u>no powers</u>** to detain (ie "section") patients under any circumstances under the mental health act.

Section 2 (admission for assessment) – for up to 28 days.
Application is required by an Approved Mental Health Practitioner (AMHP) or nearest relative, and two medical recommendations are needed. At least one doctor must be approved under "section 12" of the Act and the other should know the patient in his or her professional capacity.

Section 3 (admission for treatment) – For 6 months initially, can be reviewed and extended.
Application and two medical recommendations are required as for section 2. This is undertaken when the patient is already detained under section 2 or the nature and degree of the patient's illness is already known and therefore doesn't require admission for assessment.

Section 4 (admission for assessment in an emergency) – for up to 72 hours.
Application is made by the AMHP and one doctor who has examined the patient for the purpose of the act within the last 24 hours. The person must fit the criteria for detention under section 2 of the Act. Section 4 should only be used in a situation where to delay the detention due to the unavailability of the second doctor presents a significant risk to the patient or others.

Section 135(1) (magistrates powers)
This is a <u>Magistrates</u> order. It can be applied for by an AMHP in the best interests of a person who is thought to be mentally disordered, but who is refusing to allow mental health professionals into their residence for the purposes of a Mental Health Act assessment. Section 135 magistrates' orders give police officers the right to enter the property for the person to be taken to a locally defined "place of safety".

Section 135(2) (magistrates powers)
A Police Officer may use powers of entry under section 135(2) of the Act when it is necessary to gain access to premises to retake a person into custody who is already liable to detention, or recall, under the Act.

Section 136 (police authorised powers)
This authorises a police officer to take a person from a "**<u>place to which the public have access to"</u>** to a **<u>place of safety</u>**, usually a hospital, if it appears to a police officer that they are suffering from "mental disorder" and "**<u>in immediate need of care or control</u>**". The Mental Health Act Code of Practice states that a police station should be used as a place of safety only on an "exceptional basis". A person detained under section 136 must be released if they are not detained in a hospital, under the Act, within 24 hours. The purpose of the "holding powers" is to allow an AMHP and doctors to assess if the patient needs detention.

7.5 The Mental Capacity Act 2005 (MCA).
The MCA applies to everyone involved in the care, treatment and support of people **aged 16 and over** living in England and Wales who are unable to make all or some decisions for themselves. The Trust is required to adhere to legislation and associated guidance which relates to a patient's mental capacity. The MCA ensures that, as far as possible, all adults

can take decisions about their own lives. Other people, (e.g. a family member, or a staff member), must help the individual to make decisions for themselves as required.

"Mental capacity" refers to the ability of an individual to make a decision *at the time that decision needs to be made*. A person is said to lack capacity, if at that point in time he/she is unable to make a decision for him/herself because of an impairment or disturbance in the functioning of the brain or mind.

Capacity can fluctuate; some individuals may be able to make decisions about their daily lives but may not be able to make decisions about other things. Every effort should be made to assist an individual in making his or her own decisions by using effective communication. Detailed resources have been developed to support key aspects of the MCA relevant to the ambulance sector including scenarios and decision making. All of these have had legal input and are consistent with the MCA code of pactice which can be found online.

On attendance at any incident where a patient is deemed to lack capacity it is important to remember that this is **not** an automatic trigger to call for police attendance. Police attendance should *only* be requested when a patient is presenting with actual aggressive/violent behaviour, and after all attempts to persuade the patient to travel have failed. Please refer to detailed practical scenarios and flowcharts in supporting blended learning materials such as "pocket guide" A1 poster and mental health workbooks.

8. Decision making and key legal framework

8.1 Interface between the Mental Capacity Act and the Mental Health Act.

The Mental Capacity Act may be used to treat people for an immediate mental or physical illness when they cannot consent to the treatment because they lack capacity, and where the treatment is in their best interests. The threshold for intervening to restrict liberty should be high (serious or life-threatening condition) following the two stage functional test and being proportionate to the presenting risks.

The Mental Capacity Act cannot be used to *detain* anyone who needs treatment for a mental illness. If a person is detained under the Mental Health Act, the Mental Capacity Act does not apply to treatment for the person's mental disorder - which can be given without consent under the Mental Health Act. It also means that attorneys (and deputies) cannot consent to, or refuse, such treatment on the patient's behalf. For the same reason, an advance decision to refuse treatment for mental illness can be over-ridden where necessary.

For most other purposes, the Mental Capacity Act will continue to apply to a patient detained under the Mental Health Act. This means, for example, that an advance decision to refuse treatment for any illness or condition - other than mental disorder - is not affected; nor is any power an attorney has to consent to such treatment. It also means that where a detained patient lacks capacity to consent to treatment (other than treatment for mental disorder) the decision-maker will need to act in accordance with the Mental Capacity Act. For more detail on the interface between the Mental Capacity Act and the Mental Health Act 1983 refer to the Codes of Practice.

Professionals may need to consider using the MHA to detain and treat a person who lacks the capacity to consent to treatment, instead of the MCA, if:

- It is not possible to give the care or treatment needed without deprivations of liberty.

- The person needs treatment that cannot be given under the MCA (for example the person has made an advanced decision to refuse essential treatment for the mental illness).

- The person may need to be restrained in a way not allowed under the MCA.

- The person lacks capacity to decide on some elements of the treatment but has capacity to refuse parts of it and they have done so or:

- There is some other reason the person might not get treatment and they, or someone else, might suffer as a result.

8.2 Conveyance.
The Mental Health Act Code of Practice (2015) 17.3 states that patients detained under the Mental Health Act: "*should always be conveyed in a manner which is most likely to preserve their dignity and privacy consistent with managing any risk to their health and safety or to other people.*"

The Mental Health Act Code of Practice requires Local Social Services Authorities (defined in S.145 (1) Mental Health Act), the NHS and the local Police Authority to establish a clear policy for the use of the powers to convey a person to hospital under S.6 (1) Mental Health Act.

The Trust will exercise its authority to convey under the Mental Health Act, using the most clinically appropriate vehicle for the presenting circumstances.

The Trust will work with its commissioners, partner agencies and health and social care providers to develop coordinated, multi-agency solutions for the transport of mental health patients. This will be consistent with the NHS LTP related dedicated mental health ambulance response vehicles.

On attendance at any incident where a patient detained under the MHA is resistive to being transported, it is important to remember that this is **not** an automatic trigger to call for police attendance. Police attendance should *only* be requested when a patient is presenting with actual aggressive/violent behaviour. If required, further advice and assistance should be requested from the responsible officer (i.e. the AMHP, following initial detention, or ward staff if Absent Without Leave [AWOL]).

8.3 Section 136 transport.
The transport of people detained under s136 is governed by a National Ambulance Service s136 guidance and referenced in the SCAS training materials. A brief outline of key points to note:
Patients should be promptly screened for any underlying medical conditions before being taken to the most appropriate place of safety.
Emergency Departments (ED) are often not the most appropriate places of safety under the MHA. However, if a patient who has been detained under s136 MHA requires medical treatment - for any reason - they may be taken to the ED and moved to the health-based place of safety once treated when available. The Police Officer should stay with the patient

in ED or ensure that the ED has appropriate levels of security to monitor and manage the patient.

8.4 Other MHA Transport.

For all detentions, the transport and conveying processes should be followed as outlined in the relevant Joint Working Protocols (for example Surrey Sussex NEPTS, Thames Valley and Hampshire protocols).

Guidance on processes to follow when transporting patients who have been detained under the MHA can be found in Appendix 5.

Within Hampshire, Southampton and Portsmouth, all secure mental health transport is commissioned via a separate commissioning contract with a private provider and this includes ad-hoc requests from the Isle of Wight. Therefore, SCAS will only be involved on an exceptional basis where secure mental health transport is not required. The principles of National s136 response times are therefore monitored locally by commissioners.

8.5 Restraint (restrictive interventions).

"Restrictive interventions" are defined as *'deliberate acts on the part of other person(s) that restrict an individual's movement, liberty and/or freedom to act independently'.* (Positive and Proactive Care: reducing the need for restrictive interventions. DH 2014). Restraint can include physical, chemical and or mechanical interventions to restrict movement. The Trust do not support the use of mechanical or chemical restraint. There is currently a national review of acute behavioral disturbance (ABD) which is a serious medical condition that can occur from restraint.

Ambulance staff in SCAS do not currently have training in physical restraint or safe holding. Minimal guided assistance or support could be used in cases where the action is in the patients best interest and a dynamic risk assessment has concluded that performing the action would not cause harm to the ambulance crew or patient in scenarios where a patient lacks capacity or is detained under the MHA. If the behaviour of the patient exceeds what the crew can safely manage then assistance must be requested (this does not necessarily have to be police. For example mental health provider or ED security). Patients should never be held by Trust staff in a face down or face up position on the floor. Any restrictive physical intervention should be recorded and a Datix generated. The Trust recognise the need to consider restraint, safe holding and where it may be appropriate to explore training. A separate policy and working group will be considered specific to physical intervention and the legal framework behind this.

When attending a patient and restraint is used by staff it can only be used in accordance with the legal guidance of the Mental Health Act (1983), Mental Capacity Act (2005), Human Rights Act (1998) and actions taken under common law.

Under common law, restraint can be used to prevent harm or injury to others. Actions taken under common law are ones that any reasonable member of the public would also take for self-preservation of themselves and others.

When restraint is used staff must use the least restrictive form of restraint for the least amount of time possible. Staff must also be able to demonstrate what reasonable steps they took when reaching the decision to use restraint, completing a dynamic risk assessment, recording decisions and actions in the patient's clinical record. Staff should aim to protect the patient's dignity throughout any type of restraint, however it is recognised that this is not always possible.

Whenever any form of forcible restraint has been used this must be recorded in the patient's clinical record and details handed over to staff at the receiving unit.

Ambulance staff should always monitor the physical well-being of a patient who is being forcibly restrained by the Trust or others and should be familiar with the signs and symptoms - and management – of Acute Behavioural Disturbance (sometimes referred to as "Excited Delirium"), which may result after prolonged forcible restraint. In circumstances where clinicians are on scene and a patient is being restrained (e.g. by police) clinical staff should ensure they clearly advise others as an advocate for the patients care and where possible medically assess the patient if there may be any evidence to suggest the patient is compromised medically whilst under restraint.

9. Training

South Central Ambulance Service NHS Foundation Trust follows the current JRCALC UK Ambulance Services Clinical Practice Guidelines for the management of Mental Health issues and is committed to improving the education, training and development of all staff.

The Trust will provide access to a variety of mental health learning and educational resources, which can be accessed by different means including e-learning, digital, technologies, education centre and physical resources. All staff having direct contact with patients will receive training related to compassion focused approaches to mental health. As a minimum this will also cover an overview of mental health legislation, mental health conditions (including dementia, learning disability and autism awareness) and the Mental Capacity Act 2005 [MCA]). This will also include providing care in partnership with other organisations including but not limited to Mental health crisis teams, AMHP's police and acutes. This will be delivered via the Trust Training strategy in close collaboration with the education team.

The Trust will ensure that teaching staff are suitably qualified to deliver mental health education. These will be supported by the Mental Health clinical lead. The Trust, working with University partners, Police, Mental Health service providers, relevant association of ambulance chief executives (AACE) subgroups and the Trust Subject Matter Expert, will continue to improve the learning experience of students in relation to the wider Mental Health within the ambulance service. This will include joint training programmes whenever possible.

10. Equality and Diversity

An Equality Impact Assessment has been undertaken on this policy. A copy of the assessment can be found in Appendix 3.

11. Monitoring

This policy will be monitored through the mental health projects and mental health steering groups. Upward reporting will be provided to the patient safety group. Effectiveness will also be monitored by review of training records patient experience, system key performance indicators and staff engagement. Accountability on system deliverables will be through to external groups including but not limited to CCG mental health boards, ICS mental health boards and any other relevant system reporting mechanisms. An overarching strategy and transformation plan will be developed with ongoing project management support.

12. Consultation and Review

This Policy will be reviewed every three years. However, should national guidance or legislation change then the policy may be reviewed earlier.

13. Implementation (including raising awareness)

Education on this policy will be provided by the Education Department, in line with the training programmes. This will be done through a broad range of training and development methods. These include but are not limited to E-learning, technologies based training, simulated scenarios, videos, digital resources, physical resources, CPD sessions and mentorship in practice (eg SCAS clinicians collaborating with telephone triage in clinical contact centres and mental health operational response vehicles). Awareness of this will be through various communications methods as outlined in communications strategy. Appraisals and staff surveys provide opportunities for evaluation and continual development.

14. References

The following external sources either referenced or relevant to this policy are listed below:

- Mental Health Act 1983 https://www.legislation.gov.uk/ukpga/1983/20/contents
- Mental Capacity Act https://www.legislation.gov.uk/ukpga/2005/9/contents
- Policing and Crime Act http://www.legislation.gov.uk/ukpga/2017/3/contents/enacted
- Crisis Care Concordat https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/281242/36353_Me ntal_Health_Crisis_accessible.pdf
- Five Year Forward View for Mental Health https://www.england.nhs.uk/wpcontent/uploads/2016/02/Mental-Health-Taskforce-FYFV-final.pdf
- NHS Long Term Plan https://www.longtermplan.nhs.uk/wp-content/uploads/2019/01/nhs-longterm-plan-june-2019.pdf
- Thriving at Work: The Stevenson Farmer review of mental health and employers https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file /658145/thriving-at-work-stevenson-farmer-review.pdf
- Cater Report (2018): Operational productivity and performance in English NHS acute hospitals: Unwarranted variations https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file /499229/Operational_productivity_A.pdf
- Skills for Health: Mental Health Core skills Competency Framework https://www.skillsforhealth.org.uk/services/item/525-mental-health-download

15. Associated documentation

- SCAS Consent Policy and Procedure.
- SCAS Frequent caller policy
- SCAS Safeguarding Vulnerable Persons Policy and Procedure.
- SCAS Patient Information and Confidentiality Policy.
- SCAS Duty of Candour Policy.
- SCAS Adverse Incident Reporting policy.
- All joint Working Protocols and service specifciations (Hampshire/Thames Valley).
- National Institute for Health and Care Excellence (NICE) guidelines for Mental Health and behavioural conditions

16. Appendix 1: Review Table

A full review table has been carried out on this policy and is available to the public on request.

17. Appendix 2: Responsibility Matrix – Policies, Procedures and Strategies

A full responsibilities matrix has been carried out on this policy and is available on request

18. Appendix 3: Equality Impact Assessment Form Section One – Screening

A full Equality Impact Assessment has been carried out on this policy and is available on request to the public and internally via our Staff Intranet.

19. Appendix 4: Ratification Checklist

A Ratification Checklist for this policy is available on request.