1 Introduction

1.1 This practice guidance note deals with the information given to patients admitted to hospital without the use of compulsory powers under the Mental Health Act 1983 (MHA). It should be read in conjunction with the Mental Health Act Code of Practice and the reference Guide to the Mental Health Act (MHA).
2 Background

2.1 Although the MHA does not impose any duties to give information to informal/voluntary patients, these patients should be made aware of their legal position and rights. Both the patient and, where appropriate, their carer and advocate should be made aware of this right with information being provided in a format and language the patient understands. Local policies and arrangements about movement around the hospital and its grounds must be clearly explained to the patients concerned. Failure to do so could lead to a patient mistakenly believing that they are not allowed to leave hospital, which could result in an unlawful deprivation of their liberty and a breach of their human rights. (Code of Practice MHA (2015)).

2.2 Informal / Voluntary admissions amount to approximately 26% of admissions to a hospital within Northumberland Tyne and Wear NHS Foundation Trust, (the Trust). A small percentage of this group of patients will be ‘Deprived of Their Liberty’ under the Mental Capacity Act 2005 thereby reducing this number to approximately 21%. Section 131 of the MHA emphasises the freedom for patients to be admitted without any formal restrictions. The same section also allows for patients to remain in hospital after they have stopped being detained under another section.

2.3 The Trust feels it is important that all patients understand as much as possible about their treatment and admission to hospital.

3 Aims and Objectives

3.1 This practice guidance note aims to set out the principals and procedures necessary to meet it’s responsibilities to service users, staff and the MHA. In doing that it aims to:

- Ensure that patients are informed about their legal status surrounding their admission and treatment.
- Ensure that patients understand their rights, as far as they are able to, when admitted to hospital voluntarily and informally.

4 Responsibilities

4.1 Care staff – will have regard to the details in this practice guidance note and highlight any issues with the operation of this document to their line manager.

4.2 Mental Health Legislation Committee (MHLC) – will ensure this practice guidance note is monitored, reviewed and updated as necessary.

5 Voluntary and Informal Patients

5.1 The Bournewood case findings given at the European Court of Human Rights in October 2004 suggested patients (not under MHA powers) fell into two categories:-

1. Voluntary Patients and
2. Informal Patients
5.2 Voluntary patients have the capacity to consent and willingly accept admission into hospital and the treatment offered. Informal Patients do not have capacity to consent, do not attempt to leave hospital and do not object to treatment.

5.3 The term “voluntary patient” will be used when referring to a patient who has capacity to consent and “informal patient” for those who do not have capacity to consent. Capacity is assessed in accordance with the Mental Capacity Act 2005 and the Trust’s policy, NTW(C)35 Mental Capacity Act.

6 Information


should be explained and given to patients admitted to a psychiatric hospital (unless subject to the MHA) by the admitting nurse. Such a leaflet will be used to provide information to voluntary and informal patients on admission to hospital. The patient can then use this information to inform their decision making regarding their willingness to remain and accept treatment as far as their capacity allows.

7 Capacity

7.1 On admission the medical staff will undertake an assessment of the patient’s capacity to consent to treatment and admission to hospital.

7.2 The patient’s capacity must be regularly reviewed where changes are evident and at the multi-disciplinary meeting. The outcome should be recorded on the individual’s clinical notes.

8 Carers

8.1 Information regarding the patient’s admission status should be given to the patient’s carers whilst adhering to data protection protocols.

9 Impact on Equality and Diversity

9.1 In conjunction with the Trust’s Equality and Diversity Officer this practice guidance note has undergone an Equality and Diversity Impact Assessment which has taken into account all human rights in relation to disability, ethnicity, age and gender. The Trust undertakes to improve the working experience of staff and to ensure everyone is treated in a fair and consistent manner.
10 Training and Support

10.1 Training for staff concerning this practice guidance note will be included in the rolling training programme for the MHA.

10.2 Support for the operation of this practice guidance note will be sought via the MHA / Mental Capacity Act (MCA) Multi-agency Group and Mental Health Legislation Committee.

11 Implementation

11.1 This practice guidance note was implemented at ratification and has been reviewed after 12 months. It will be reviewed again in 3 years or sooner if there are changes to national or local guidance.

11.2 It is recognised that this practice guidance note is a change in practice and covers diverse patient groups. As such it is envisaged that some areas of the trust may develop an alternative leaflet which better meets the needs of their patients.

12 Review and Monitoring

12.1 This practice guidance note will be monitored by the MHA/MCA Multi-agency group and the Mental Health Legislation Committee. Any issues with the operation of this document will be brought to the attention these groups who will deal with any actions accordingly.