

## **Equality Impact Assessment - Standard Assessment Template**

### **Section A: Assessment**

**Name of Policy** Restraint in the care management of adults with impaired mental capacity policy and procedure

**Person/persons conducting this assessment with Contact Details** Mental Capacity Act Manager, tel. 029 2074 3652

**Date** December 2015

#### **1. The Policy**

**Is this a new or existing policy?**

Existing.

**What is the purpose of the policy?**

The aim of this policy is to ensure that adult patients (i.e. those aged 16 years and over) who lack capacity to consent to care and treatment receive appropriate care and treatment in accordance with the requirements of the Mental Capacity Act 2005. On occasions, this might require the patient to be restrained, if it is used to protect the patient from harm, is a proportionate response to that harm, is in their best interests and is the least restrictive appropriate available intervention.

This policy aims to assist Cardiff and Vale University Health Board to meet its legal obligations regarding the care and treatment of patients who may lack mental capacity to make decisions about their treatment and care.

**How do the aims of the policy fit in with corporate priorities? i.e. Corporate Plan**

As a public body providing healthcare, it is essential that the UHB complies with the law. All treatment and care provided to patients must be undertaken in compliance with the law.

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### **Who will benefit from the policy?**

**Staff** – compliance with the law means that the risk of staff being sued or prosecuted in connection with restraint used in the care and treatment of patients (with the exception of clinical negligence) is reduced. Staff also have a defence if complaints are made about them in relation to the use of restraint as part of planned treatment and care (again, excepting clinical negligence) to - for example - the UHB or to their professional body.

**Patients** – the policy will benefit those patients who may lack mental capacity to make decisions about their treatment and care by ensuring that the decision to restrain a patient has been made in accordance with the law.

### **What outcomes are wanted from this policy?**

To ensure that where restraint is used to prevent harm to a patient who lacks capacity to consent to it, the restraint is used lawfully, thereby protecting both staff and patients.

### **Are there any factors that might prevent outcomes being achieved? (e.g. Training/practice/culture/human or financial resources)**

The outcome is dependent upon staff understanding and using the law appropriately.

Staff attitudes about the importance of capacity and consent issues may adversely impact on the Policy's outcomes. Staff compliance with undertaking training on capacity and consent issues may also have an adverse impact.

However, training is available for staff on all aspects of consent and capacity. Mental Capacity Act training is mandatory for clinical staff. Support and assistance is available to staff regarding all aspects of this Policy either from the Mental Capacity Act Manager, Consultant Nurse for Older Vulnerable Adults or appropriate others – e.g. NHS Solicitors.

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## 2. Data Collection

What qualitative data do you have about the policy relating to equalities groups (e.g. monitoring data on proportions of service users compared to proportions in the population)?

What quantitative data do you have on the different groups<sup>16</sup> (e.g. findings from discussion groups, information from comparator authorities)?

Please indicate the source of the data gathered? (e.g. Concerns/Service/Department/Team/Other)

What gaps in data have you identified? (Please put actions to address this in your action plan?)

- This Policy applies to any patient aged 16 years and over who lacks capacity to consent to restraint that is needed to keep them safe from harm. If the Policy is not followed, staff may be acting unlawfully.
- The EqIA completed for the previous version of this Policy found there to be no adverse impact on any of the equalities groups. As the law on consent and capacity has not substantially changed since then, it is most unlikely that the effect of this Policy on any of the equalities groups will have changed.
- This EqIA was discussed and agreed by the Vulnerable Adults Risk Management Working Group in May 2015.

Whilst undertaking this EqIA, the following organisations' Restraint Policy EqIAs were reviewed on 5/1/2015 -

a) Nottingham University Hospital NHS Trust

[https://www.google.co.uk/url?url=https://www.nuh.nhs.uk/handlers/downloads.ashx%3Fid%3D33736&rct=j&frm=1&q=&esrc=s&sa=U&ei=BquqVPz\\_IMmP7AavvoGgDg&ved=0CCgQFjAE&usg=AFQjCNHGtZnuU9IbwlQ53rJ9UHW3CRNkhg](https://www.google.co.uk/url?url=https://www.nuh.nhs.uk/handlers/downloads.ashx%3Fid%3D33736&rct=j&frm=1&q=&esrc=s&sa=U&ei=BquqVPz_IMmP7AavvoGgDg&ved=0CCgQFjAE&usg=AFQjCNHGtZnuU9IbwlQ53rJ9UHW3CRNkhg)

b) Mid Essex Hospital Services NHS Trust

<http://www.google.co.uk/url?url=http://www.meht.nhs.uk/EasysiteWeb/getresource.axd%3FAssetID%3D5591%26type%3Dfull%26servicetype%3DAttachment&rct=j&frm=1&q=&esrc=s&sa=U&ei=KqyqVKWgKaWe7gaF3YGoDg&ved=0CC4QFjAF&usg=AFQjCNHf-eMxrJGW1IO2pyDVAuVaVSGpVg>

c) Northampton General Hospital NHS Trust

<http://www.northamptongeneral.nhs.uk/WorkforUs/Downloads/EQIAs/EQIAAdultRestraintPolicy.pdf>

d) Royal Cornwall Hospitals NHS Trust

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<http://www.rcht.nhs.uk/DocumentsLibrary/RoyalCornwallHospitalsTrust/Clinical/SafeguardingAdults/RestrictivePractice.pdf>

e) Nottinghamshire Healthcare NHS Trust

<http://www.google.co.uk/url?url=http://www.nottinghamshirehealthcare.nhs.uk/EasySiteWeb/GatewayLink.aspx%3FallId%3D10324&rct=j&frm=1&q=&esrc=s&sa=U&ei=BK6qVKSbIOfW7AabwYCIDw&ved=0CDQQFjAGOAo&usq=AFQjCNErai-LmFLN6FYykFguikGMcl6ERA>

f) Worcestershire Acute Hospitals NHS Trust

<https://www.google.co.uk/search?q=restraint+policy+equality+impact+assessment&hl=en-GB&gbv=2&prmd=ivns&ei=KqygVKWgKaWe7gaF3YGoDg&start=10&sa=N>

Although each organisation came to slightly different conclusions about whether or not there was any impact on the equalities groups, overall they suggest that either there was no impact, or a positive impact.

Within the UHB, there is no formal information available on the use of restraint and on whom it is used.

It has not been possible to discover any other sources of information about the use of restraint in hospitals.

The only formal reporting on the use of restraint across England and Wales, was that undertaken by the Care Quality Commission for its “Count Me In” Census, which looked at the experience of people in mental health and learning disability hospitals. However, this was published for the last time in 2011.

CQC – Count me in Census, published 2011,

[http://webarchive.nationalarchives.gov.uk/20110504130559/http://www.cqc.org.uk/db/documents/Count\\_me\\_in\\_2010\\_FIN\\_AL\\_\(tagged\).pdf](http://webarchive.nationalarchives.gov.uk/20110504130559/http://www.cqc.org.uk/db/documents/Count_me_in_2010_FIN_AL_(tagged).pdf) –

**Hands-on restraint**

*This was defined as the physical restraint of a patient by one or more members of staff in response to aggressive behaviour or resistance to treatment. About 12% of patients had experienced one or more episodes of hands-on restraint. No ethnic differences*

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*were observed. In fact, very few ethnic differences have been observed in the previous censuses also, and they have not shown a consistent pattern.*

### 3. Impact

Please answer the following

Consider the information gathered in section 2 above of this assessment form, comparing monitoring information with census data as appropriate (see [www.ons.gov.uk](http://www.ons.gov.uk) Office National Statistics website) and considering any other earlier research or consultation. You should also look at the guidance in Appendix 1 with regard to the protected characteristics **stating the impact and giving the key reasons for your decision.**

**Do you think that the policy impacts on people because of their age?** (This includes children and young people up to 18 and older people)

There is no link between this policy and age. The Policy applies to all adult patients who lack mental capacity to agree to or refuse restraint that they may need to prevent them coming to harm.

**Do you think that the policy impacts on people because of their caring responsibilities?**

There is no evidence of this. All UHB patients must be treated in compliance with the law, regardless of their caring responsibilities.

**Do you think that the policy impacts on people because of their disability?** (This includes Visual impairment, hearing impairment, physically disabled, Learning disability, some mental health issues, HIV positive, multiple sclerosis, cancer, diabetes and epilepsy.)

Because the policy is about the legal issues regarding providing safe treatment and care to people with impaired mental capacity, it is only relevant where people have a condition, illness or disability that affects their mental capacity. However, the policy merely reflects current England and Wales law.

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**Do you think that the policy impacts on people because of Gender reassignment?** (This includes Trans transgender and transvestites)

There is no evidence of this.

**Do you think that the policy impacts on people because of their being married or in a civil partnership?**

There is no evidence of this.

**Do you think that the policy impacts on people because of their being pregnant or just having had a baby?**

There is no evidence of this.

**Do you think that the policy impacts on people because of their race?** (This includes colour, nationality and citizenship or ethnic or national origin such as Gypsy and Traveller Communities.)

There is no evidence of this.

**Do you think that the policy impacts on people because of their religion, belief or non-belief?** (Religious groups cover a wide range of groupings the most of which are Buddhist, Christians, Hindus, Jews, Muslims, and Sikhs. Consider these categories individually and collectively when considering impacts)

There is no evidence of this.

**Do you think that the policy impacts on men and woman in different ways?**

There is no evidence of this.

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**Do you think that the policy impacts on people because of their sexual orientation?** (This includes Gay men, heterosexuals, lesbians and bisexuals)

There is no evidence of this.

**Do you think that the policy impacts on people because of their Welsh language?**

There is no evidence of this.

#### **4. Summary.**

Which equality groups have positive or negative impacts been identified for (i.e. differential impact).

Is the policy directly or indirectly discriminatory under the equalities legislation?

If the policy is indirectly discriminatory can it be justified under the relevant legislation?

Overall, there is no evidence that this Policy adversely affects any of the equalities groups.

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## Appendix 3

### Cardiff and Vale University Health Board Action Plan

#### Section B: Action

##### 5. Please complete your action plan below. Issues you are likely to need to address include

- What **consultation** needs to take place with equality groups (bearing in mind any relevant consultation already done and any planned corporate consultation activities)
- What **monitoring/evaluation** will be required to further assess the impact of any changes on equality target groups?

#### Equalities Impact Assessment Implementation Action Plan

Issue to be addressed	Responsible Officer	Action Required	Timescale for completion	Action Taken	Comments
None					

#### 6. Report, publication and Review

Please record details of the report or file note which records the outcome of the EQIA together with any actions / recommendations being pursued (date, type of report etc)

The outcome of this EqIA will be reported to and noted by the Mental Health and Capacity Legislation Committee. The minutes of these meetings are available from the internet.

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**Please record details of where and when EqIA results will be published:** On both the intranet and internet

**Please record when the EQIA will be subject to review.** The EqIA and Policy will be reviewed three years after approval unless changes to legislation determine that an earlier review is required.

**Name of person completing** Julia Barrell, Mental Capacity Act Manager

**Signed** \_\_\_\_\_

**Date:** 13 January 2016

**Name of Senior Manager Authorising Assessment and Action Plan for publication** Dr Graham Shortland, Executive Medical Director

**Signed:** \_\_\_\_\_

**Date:** \_\_\_\_\_