



## Renewal of Detention and Consultation with the Second Professional Policy

<b>Reference No:</b>	UHB 123	<b>Version No:</b>	1	<b>Previous Trust / LHB Ref No:</b>	N/A
----------------------	---------	--------------------	---	-------------------------------------	-----

<b>Documents to read alongside this Policy</b>	Mental Health Act 1983 MHA1983, Code of Practice for Wales Mental Health Act Manual, Twelfth Edition – Prof. Richard Jones Mental Capacity Act 2005; MCA 2005 Code of Practice Equality Act 2010; Human Rights Act 2000
--	---

**Classification of document:** Mental Health Act

**Area for Circulation:** Mental Health Division

**Author/Reviewee:** Mental Health Act Manager

**Executive Lead:** Executive Director Public Health

**Group Consulted Via/ Committee:** Mental Health Act Policy Group

**Approved by:** Mental Health Act Monitoring Committee

**Date of Approval:** 18 April 2012

**Date of Review:** 18 April 2015

**Date Published:**

### Disclaimer

**When using this document please ensure that the version you are using is the most up to date either by checking on the UHB database for any new versions. If the review date has passed please contact the author.**

**OUT OF DATE POLICY DOCUMENTS MUST NOT BE RELIED ON**

<b>Version Number</b>	<b>Date of Review Approved</b>	<b>Date Published</b>	<b>Summary of Amendments</b>
1	18/04/2012		New Document

## **Renewal of Detention and Consultation with the Second Professional**

<b>Index</b>	<b>CONTENTS</b>	<b>Page No</b>
1.	Equality Statement	4
2.	Policy Statement	4
3.	Introduction	4
4.	Aim	4
5.	Hospital Managers	5
6.	Scope	5
7.	Requirements to ensure compliance with Section 20, MHA 1983	6
8.	Identifying a second professional	6
9.	Disputes	7
10.	Training	7
11.	Review	7

## **1. EQUALITY STATEMENT**

Cardiff and Vale University Health Board is committed to ensuring that, as far as is reasonably practicable, the way it provides services to the public and treats its staff, patients and others reflects their individual needs and does not discriminate, harass or victimise individuals or groups. These principles run throughout our work and are reflected in our core values, our staff employment policies and our service standards.

An Equality Impact Assessment has been undertaken on this protocol and the way it operates. If in future there are any changes to this protocol that impact on any groups in respect of gender (including maternity and pregnancy, as well as marriage or civil partnership issues), race, disability, sexual orientation, Welsh language, religion or belief, transgender, age or other protected characteristics, every effort would be taken to make plans for the necessary actions required to minimise any stated impact to ensure that we meet our responsibilities under Mental Health legislation as well as that of Equalities and Human Rights legislation.

Copies of the document in alternative formats, including Welsh can be provided, if required.

## **2. POLICY STATEMENT**

Cardiff and Vale ULHB is committed to ensuring compliance with the provisions of section 20 and regulation 5 of the Mental Health (Hospital, Guardianship, Community Treatment and Consent to Treatment) (Wales) Regulations 2008. Individuals acting on behalf of the Hospital Managers must have regard to the Code in carrying out their relevant functions under the Act.

Departures from the Code could give rise to legal challenge and a Court in reviewing any departure from the Code will scrutinise the reasons to ensure there is sufficiently convincing justification in the circumstances.

## **3. INTRODUCTION**

The role of the “Second Professional” was introduced in the Mental Health Act 2007. The purpose of the role is to provide an additional safeguard to patients detained under sections 3 and 37 when a period of detention is coming to an end and consideration is being given to the renewal of authority to detain.

## **4. AIM**

To ensure that the responsible clinician selects a person of a different profession who is professionally concerned with the patient’s treatment to provide written agreement that it is appropriate for the patient to receive treatment in a hospital; it is necessary for the patient’s own health or safety or for the protection of other persons that the patient should receive such treatment and it cannot be provided unless the patient continues to be detained under the Act; and that taking into account the nature and degree of

the mental disorder from which the patient is suffering and all other circumstances of the case, appropriate medical treatment is available for the patient.

## **5. HOSPITAL MANAGERS**

In this document “the Act” means the Mental Health Act 1983 as amended by the Mental Health Act 2007.

For hospitals vested in Local Health Boards, it is the Board members who are the Hospital Managers not the management team of the hospital; Hospital Managers have a central role in operating the provisions of the Act.

Hospital Managers have the authority to detain patients in the hospital named in an application; they must ensure that patients are only detained in accordance with the Act.

Hospital Managers must ensure that the treatment and care of detained patients is fully compliant with the provisions of the Act; that patients are fully informed of their statutory rights and are supported in exercising them. Hospital Managers must also ensure that a patient’s case is dealt with in line with other legislation which may have an impact, including the Mental Capacity Act 2005, the Human Rights Act 1998, the Data Protection Act 1998 and the Domestic Violence, Crime and Victims Act 2004.

Cardiff and Vale University Health Board retains responsibility for the performance of all Hospital Managers functions and must ensure that the people acting on its behalf are competent to do so. Members of staff authorised to carry out the functions of the Hospital Managers must therefore be suitably trained to understand the requirements of the Act.

Special rules apply to the exercise of the Hospital Managers’ Power of Discharge. This power can only be delegated to managers’ panels made up of people appointed specifically for the purpose who are not officers or employees of the organisation.

In Cardiff and Vale University Health Board these decisions are taken by panels of three or more members of the Power of Discharge Committee.

## **6. SCOPE**

The policy applies to the responsible clinician who is the approved clinician with overall responsibility for the patient’s treatment and other professionals involved in the care and treatment of individuals who are detained under the Act.

A protocol for the conduct of Hospital Managers’ which links to this policy has been developed and subsequently ratified by the Mental Health Act Monitoring Committee, Cardiff and Vale ULHB.

## **7. REQUIREMENTS TO ENSURE COMPLIANCE WITH SECTION 20, MHA 1983**

Section 20(3) requires a responsible clinician to examine a patient detained for treatment for mental disorder during the two months preceding the day on which the authority for detention is due to expire.

If the responsible clinician considers that the following conditions specified in Section 20(4) are satisfied:

- that the patient is suffering from mental disorder of a nature or degree which makes it appropriate for him to receive medical treatment in a hospital;  
**and**
- it is necessary for the health or safety of the patient or for the protection of other persons that he should receive such treatment and that it cannot be provided unless he continues to be detained;  
**and**
- appropriate medical treatment is available to him

the responsible clinician must consult with a second professional (not of the same profession as the responsible clinician) who has been concerned with the patient's medical treatment.

Responsible Clinicians must identify and record who the second professional is to be.

## **8. IDENTIFYING A SECOND PROFESSIONAL**

The Act does not state who the second professional should be however the second professional could be a nurse, care coordinator, occupational therapist, psychologist, social worker or any other member of the multi disciplinary team. The Second Professional does not need to be an Approved Clinician or Approved Mental Health Professional.

The Second Professional must be appropriately qualified with sufficient experience and expertise to decide if, in their professional opinion the patient's detention is necessary.

### **How much experience?**

They should be concerned with the patient's treatment and have been actively involved in its planning, management or delivery.

They should have had sufficient recent contact with the patient to be able to make an informed judgment in the role of second professional.

Second professionals should satisfy themselves in line with local policies that they have sufficient information on which to base their decision. Whether that

requires a separate clinical interview or examination of the patient will depend on the nature of the contact that the second professional already has with the patient and on the other circumstances of the case.

## **9. DISPUTES**

The decision of the second professional should be accepted by the responsible clinician. If the responsible clinician is not in agreement with the decision, a different Second Professional should not be sought unless there are exceptional circumstances.

If a different second professional is sought because there was a dispute between the RC and original second professional and there are exceptional circumstances, the Hospital Managers should be informed if, as a result, a renewal report is made.

All discussions and decisions must be recorded in the patient's record.

## **10. TRAINING**

Those acting on behalf of the Hospital Managers must be competent to undertake the functions delegated to them. The Hospital Managers must therefore ensure that they are properly informed about the provisions of the Act and receive suitable training.

## **11. REVIEW**

This policy will be reviewed every 3 years or sooner if there are any changes to legislation that will require amendments to be made.