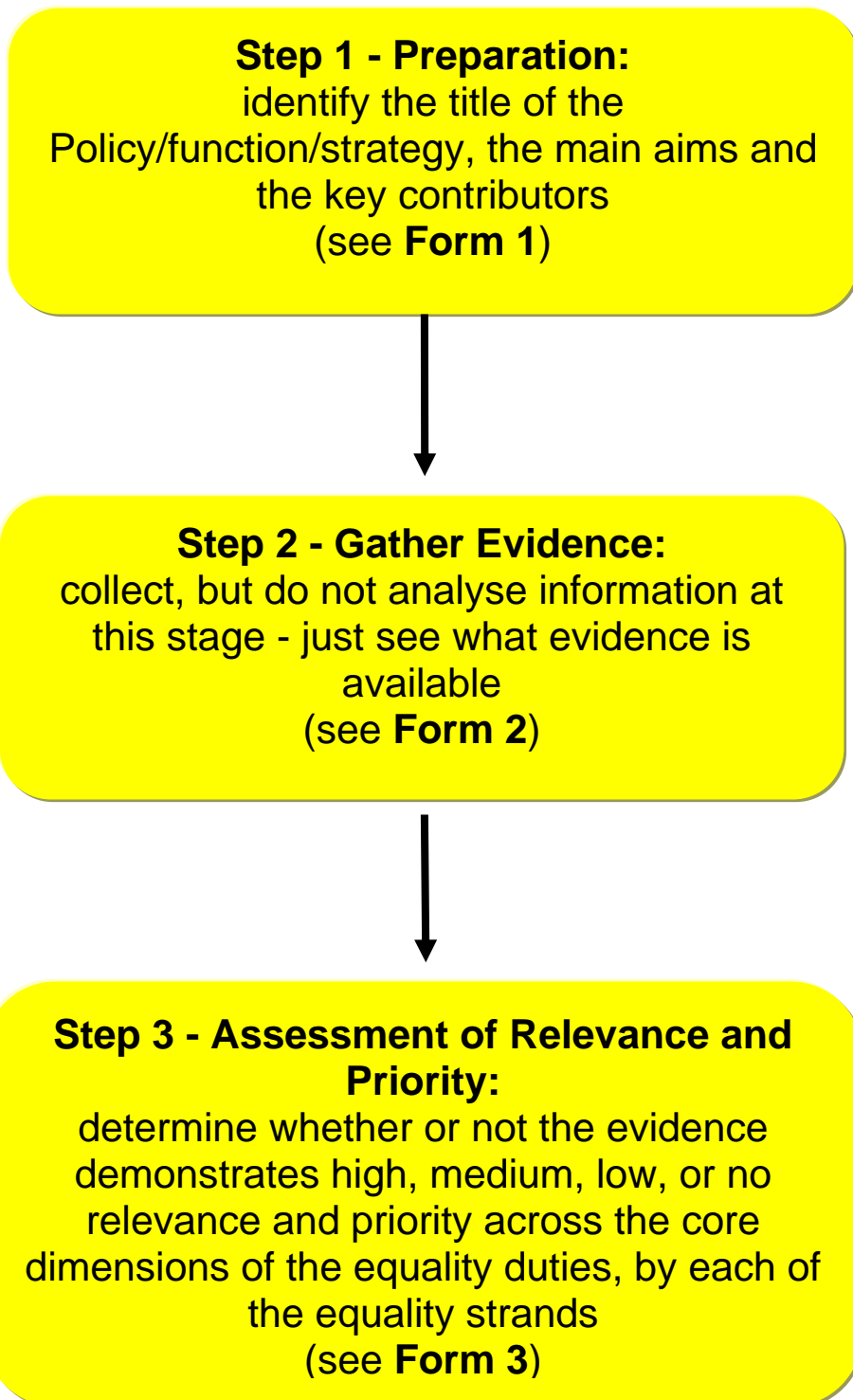


Part A: Preparation and Assessment of Relevance and Priority

Part A is a three step process which will help you to prioritise work and prepare for EqlA.



Form 1: Preparation

Part A must be completed at the beginning of a Policy/function/strategy development or review, and for every such occurrence. (Refer to the Step-by-Step Guide for additional information).

Step 1 - Preparation		
1.	Title of Policy - what are you equality impact assessing?	Power of Discharge Hospital Manager Hearings Conduct Protocol
2.	Policy Aims and Brief Description - what are its aims? Give a brief description of the Policy (The What, Why and How?)	<p>Hospital Managers have a central role in operating the provisions of the Mental Health Act 1983 (2007).</p> <p>For hospitals vested in Local Health Boards it is the Board that is the “Hospital Managers”.</p> <p>Hospital Managers have the authority to detain patients admitted under the Act. For patients on supervised community treatment, the Hospital Managers are those of the responsible hospital i.e. the hospital in which the patient was detained immediately before going on to SCT, or the hospital to which responsibility for the patient has subsequently been assigned.</p> <p>Hospital Managers must ensure that patients are detained only as the Act allows, that their treatment and care fully comply with it and that patients are fully informed of and are supported in exercising their statutory rights. 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 and the Data Protection Act 1998.</p>

Step 1 - Preparation

		<p>In practice most Hospital Managers' decisions are taken by individuals (or groups of individuals) on their behalf. Decisions about discharge from detention or SCT are taken by panels drawn from lay members who have been specifically selected and suitably trained. Panel members by virtue of their role are members of the Power of Discharge Group, a sub-committee of the Mental Health Act Monitoring Committee.</p> <p>The aim of this protocol is to ensure that members of the Power of Discharge Group are aware of their responsibilities and duties under section 23 of the Mental Health Act 1983.</p>
3.	Who Owns/Defines the Policy? - who is responsible for the Policy/work?	<p>Executive Director, Public Health Cardiff and Vale University Health Board Mental Health Act Monitoring Committee Divisional Director, Mental Health Division Divisional Manager Divisional Nurse Mental Health Act Manager</p>
4.	Who is Involved in undertaking this EqIA? – who are the key contributors to the EqIA and what are their roles in the process?	<p>Mental Health Act Manager (author) Power of Discharge Group member (advisory) Service User (advisory) Mental Health Legislation and Governance Group (advisory and responsible for document) Mental Health Act Monitoring Committee</p>
5.	Other Policies - Describe where this Policy/work fits in a wider context. Is it related to any other policies/activities that could be included in this EqIA?	<p>This protocol complements other Cardiff and Vale University Health Board, Mental Health Act policies and procedures currently being developed including: Hospital Managers' Scheme of Delegation</p>

Step 1 - Preparation

		<p>Written and verbal nursing reports relating to the Mental Health Act 1983 Information policy (sections 132, 132A, 133 MHA 1983) Supervised community treatment - concerns of carers and relatives Independent Mental Health Advocates (IMHAs) Section 117, Mental Health Act 1983 Renewal of detention Applications to the Mental Health Review Tribunal for Wales Administration of the Mental Health Act Application by Nearest Relative to discharge a patient from detention under the Mental Health Act 1983 Discharge from detention in accordance with section 23, Mental Health Act 1983</p>
6.	Stakeholders - Who is involved with or affected by this Policy?	<p>All patients detained under Part 2, Mental Health Act 1983, staff who work with them, Nearest Relatives, families and carers, Mental Health Act Administrators, Hospital Managers, Power of Discharge Group members.</p>

Step 1 - Preparation

7. **What factors may contribute to the outcomes of the Policy? What factors may detract from the outcomes?** These could be internal or external factors.

There are financial, human resource and potential legal and reputational issues for Cardiff and Vale University Health Board if this procedure is not followed.

All members must receive enhanced CRB checks and commit to specific contracts with the University Health Board.

This procedure provides a framework for the training and activity of the Power of Discharge Group and a benchmark for monitoring members' performance.

Form 2: Evidence Gathering

Equality Strand	Evidence Gathered	Does the evidence apply to the following with regard to this Policy/work? Tick as appropriate.
<p>Introduction</p>	<p>Mental Health Act 1983 Code of Practice for Wales Equity Principles (accessed 2008)</p> <p>Mental Health Act 1983 Consultation on the draft revised Mental Health Act 1983 Code of Practice (accessed 2007)</p> <p>The Welsh Assembly Government Health Strategy <i>Adult Mental Health Services for Wales (2001)</i> (accessed 2011) establishes four underpinning principles to guide everyone in planning, commissioning, managing, working in and using mental health services. They are:</p> <p>Empowerment Equity Effectiveness Efficiency.</p> <p>While the principles were explicitly set out in the strategy for adults (including older adults), they are sufficiently broad to provide headings for ordering the guiding principles which will inform decision making under the Act across all ages and client specialisms.</p> <p>All of the chapters in the Code of Practice should be read in light of these principles..... For the purpose of the Protocol, particular reference is made to:</p>	

the Equity principle – “Practitioners must respect the diverse needs, values and circumstances of each patient including their: age/ race/ colour/ national, ethnic or social origins/ culture/ language/ gender/ sexual orientation/ disability (if any)/ religious beliefs and practices (if any).

Assessment, care and treatment must be delivered in a way which avoids unlawful discrimination and complies with all applicable statutory requirements.

The views, needs and wishes of patients’ carers and families should be taken into account in assessing and delivering care and treatment.

<p>Race</p>	<p>Mental Health Act Commission (MHAC) Count Me In Census (2005 – 2010) (outcome reports issued by MHAC to Trusts and Health Boards annually between 2006 and 2011). (accessed 2011) IMPACT</p> <p>Stonewall Cymru – Toe in the Water Report (2010): (An exploratory piece of research to look at the circumstances and experiences of black and minority ethnic (BME) individuals who identify as lesbian, gay or bisexual (BME) and live in Wales. (accessed 2012). IMPACT</p> <p>AWETU (now Diverse Cymru): “Wales a Commentary” 2 x reports issued on the MHAC Count Me In Census 2007 and 2009 (accessed 2012). IMPACT</p> <p>Mental Health Act 1983 Code of Practice for Wales Equity Principle issued 2008 see introduction above - IMPACT</p> <p>Improving Care for Detained Patients from Black and Minority Ethnic Communities. A visit by the Mental Health Act Commission (MHAC) to 104 Mental Health and Learning Disability Units in England and Wales. (accessed 2012) The Mental Health Act Commission has been actively involved in promoting improved mental healthcare for Black and minority ethnic groups for many years. The Commission’s <i>First Biennial Report 1983–85</i> highlighted their concerns about the over-representation of patients from Black and minority ethnic communities in mental healthcare, and their concerns have not diminished over the years. In 1997 the MHAC conducted its first national visit to 104 units to investigate a number of practice issues</p> <p>in race equality (<u>Warner et al, 2000; Patel et al, 2002</u>). They examined 504 patient files from Black</p>	Eliminating Dis	✓	Prom	✓	Promoting G	✓	Encour	✓	Take account of difference even	
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<p>Disability</p>	<p>The Statement on Policy and Practice for Adults with a learning disability includes principles to underpin the delivery of services to adults with a learning disability.... These should inform decision making regarding adults with a learning disability or autistic spectrum disorder. (accessed 2012) IMPACT</p> <p>Mental Health Act 1983 Code of Practice for Wales Equity Principle issued 2008 see introduction above (accessed 2008) IMPACT</p>		✓		✓		✓		✓		✓
<p>Gender</p>	<p>Mental Health Act Commission Count Me In Census (2008 – 2010) (outcome issued by Mental Health Act Commission to Trusts and Health Boards available annually) (accessed 2011) – SOME IMPACT</p> <p>Mental Health Act 1983 Code of Practice for Wales Equity Principle (2008)– see introduction above (accessed 2008) IMPACT</p>	✓		✓		✓		✓			
<p>Sexual Orientation</p>	<p>Mental Health Act Commission Count Me In Census 2008 – 2010 (accessed 2011) SOME IMPACT</p> <p>Mental Health Act 1983 Code of Practice for Wales Equity Principle (2008) (accessed 2008) IMPACT - see introduction above</p> <p>Stonewall Cymru - All Wales Lesbian, Gay and Bisexual [LGB] surveys and Needs Assessment Reports. An exploratory piece of research to look at the circumstances and experiences</p>	✓		✓		✓		✓			

	of black and minority ethnic (BME) individuals who identify as lesbian, gay or bisexual (BME) and live in Wales. (accessed 2012) IMPACT									
Age	Mental Health Act Commission Count Me In Census 2005 – 2010		✓		✓		✓		✓	
	Mental Health Act 1983 Code of Practice for Wales Equity Principle (2008). Particular reference is made to: The Child and Adolescent Mental Health Services (CAHMS) strategy <i>Everybody's Business</i> establishes principles to guide and underpin its implementation.... These should inform decision making about children and young people. IMPACT – see introduction above		✓		✓		✓		✓	
Religion/ Belief or non-belief	Mental Health Act Commission Count Me In Census 2005 – 2010		✓				✓		✓	
	Mental Health Act 1983 Code of Practice for Wales Equity Principle (2008) - IMPACT – see introduction above		✓				✓		✓	
Welsh Language	Mental Health Act Commission Count Me In Census 2005 – 2010		✓		✓		✓		✓	
	Mental Health Act 1983 Code of Practice for Wales Equity Principle (2008)		✓		✓		✓		✓	

	<p>Welsh speakers should, where reasonably practicable or appropriate in the circumstances, be given the option of assessment, treatment and provision of information through the medium of Welsh. Service providers who have Welsh Language Schemes must act in accordance with such schemes. (Cardiff and Vale University Health Board has such a scheme).</p> <p>If a patient's language is other than English or Welsh, assessment should be delivered using a trained interpreter who will address the issues of both language and cultural interpretation, which include the use of British Sign Language.</p> <p>IMPACT – see introduction above</p>		✓											
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People have a human right to: life; not to be tortured or treated in a degrading way; to be free from slavery or forced labour; to liberty; to a fair trial; not to be punished without legal authority; to respect for private and family life, home and correspondence; to freedom of thought, conscience and religion; to freedom of expression and of assembly; to marry and found a family and to not be discriminated against in relation to any of the rights contained in the European Convention.

<p>Human Rights</p>	<p>The Mental Health Act Commission - Thirteenth Biennial Report 2007–2009 Coercion and Consent – Appeals to Hospital Managers</p> <p>Mental Health Act 1983 Code of Practice for Wales Equity Principles in particular:-</p> <p>Practitioners must respect the diverse needs, values and circumstances of each patient.....</p> <p>1.14 They must pay due regard to all the legislation relating to equality and non-discrimination and give due and positive regard to the needs of each patient including their: age, race, colour, national/ethnic or social origins, culture, language, gender, sexual orientation, disability (if any), religious beliefs and practices (if any)</p> <p>1.15 Assessment, care and treatment must be delivered in a way that avoids unlawful discrimination and complies with all applicable statutory requirements.....</p> <p>The views, needs and wishes of patients' carers and families should be taken into account in assessing and delivering care and treatment.....</p>
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1.16 Particular consideration should be given to the likely impact of clinical decisions on patients' carers and other relevant people.

Practitioners should ensure that effective communication takes place between themselves, patients and others.....

1.17 All those involved in the assessment, treatment and care of patients should ensure that everything possible is done to overcome any barriers to communication that may exist.

**This protocol fully supports all elements of the Human Rights Act, in particular – Article 3: Prohibition of Torture
Article 5: Right to Liberty and Security of Person; Article 6: Right to a Fair Trial; Article 8: Right to respect for family life; Article 10: Freedom of Expression; Article 12: Right to Marry; Article 14: Prohibition of Discrimination.**

*** This column relates only to Disability due to the specific requirement in the Equality Act 2010 to treat disabled people more favourably to achieve equal outcomes. This is not applicable to the other equality strands.**

Form 3: Assessment of Relevance and Priority

Equality Strand	Evidence: Existing evidence to suggest some groups affected. Gathered from Step 2. (See Scoring Chart A)	Potential Impact: Nature, profile, scale, cost, numbers affected, significance. Insert one overall score (See Scoring Chart B)	Decision: Multiply 'evidence' score by 'potential impact' score. (See Scoring Chart C)
Race	3	-2	High impact
Disability	3	-1	Medium impact
Gender	3	-1	Medium impact
Sexual Orientation	3	-1	Medium impact
Age	1	0	No impact
Religion or Belief	1	-1	Low impact
Welsh Language	1	0	No impact
Human Rights	1	-1	Low impact

Scoring Chart A: Evidence Available

3	Existing data/research
2	Anecdotal/awareness data only
1	No evidence or suggestion

Scoring Chart B: Potential Impact

-3	High negative
-2	Medium negative
-1	Low negative
0	No impact
+1	Low positive
+2	Medium positive
+3	High positive

Scoring Chart C: Impact Decision

-6 to -9	High Impact (H)
-3 to -5	Medium Impact (M)
-1 to -2	Low Impact (L)
0	No Impact (N)
1 to 9	Positive Impact (P)

FORM 4: (Part A) Outcome Report

Policy Title:	Power of Discharge Hospital Manager Hearings Conduct Protocol
Organisation:	Mental Health Division Cardiff and Vale University Health Board
Name: Title: Department:	Wendy Gilbert Mental Health Act Manager Divisional Manager's Department
Summary of Assessment:	<p>This assessment has reviewed the protocol – Conduct of Power of Discharge Hospital Managers Hearings as it applies to the needs of Power of Discharge Group members, involved staff, patients detained under certain sections of Part 2, Mental Health Act 1983, their Nearest Relatives and/or carers regardless of their race, gender, religion, sexual orientation, married or civil partnership status, pregnant or on maternity leave, disability or age. The overall impact was none, low or medium. However there is existing data/research available to suggest potential high impact with regard to race.</p> <p>When implementing the protocol, Cardiff and Vale University Health Board will be mindful of any factors that might affect equality in terms of practice and implementation. It will take into account peoples' individuality as they relate to all the strands above. This will be monitored by the University Health Board on a regular basis.</p> <p>The evidence gathered will be kept and is available should it be needed.</p>
Decision to Proceed to Part B Equality Impact Assessment:	<p>No</p> <p>Reason(s) for decision</p> <p>The Mental Health Act 1983 sets out the legal framework underpinning the detention and treatment of patients under compulsion. The Mental Health Act 2007 (the 2007 Act) gained Royal Assent on the 19th of July 2007 and amongst changes to other legislation, also made several important changes to the Mental Health Act 1983.</p>

Section 118(1) of the 1983 Act requires Welsh Ministers to prepare, and from time to time revise, a Code of Practice for the guidance of certain practitioners.

The Welsh Assembly Government, on behalf of the Welsh Ministers, undertook a programme of consultation on a draft Code of Practice for Wales (the draft Code). The consultation period ran from the 5th of November 2007 to the 28th of January 2008.

Alongside the consultation on the draft Code, there were concurrent consultation exercises which took place on the use of secondary legislation making powers in relation to the Mental Health Act 1983.....

Developing the Code for consultation

Following introduction of the Mental Health Bill into Parliament in November 2006, officials in the Welsh Assembly Government began developing the policy and content for the draft Code. This took account of the changes to the Bill as it was considered by Parliament.

The draft policy was developed in consultation with members of the Welsh Assembly Government's Mental Health Act Implementation Reference Group. The Mental Health Act Implementation Reference Group is representative of the main mental health stakeholders in Wales.

In addition, particular draft chapters were developed in consultation with specific stakeholders groups. For example, the chapter titled 'People with learning disabilities and autistic spectrum disorder' was discussed with members of the Learning Disabilities Implementation Advisory Group.

Equality

The consultation asked if the draft Code identified all the areas in which equality is a major issue, and whether equality issues could be addressed more effectively.

Most respondents considered that equality was highlighted where necessary and was seen as a theme underpinning the entire Code, but some respondents also considered that further support for choice within services should be promoted as well as partnership working between service users, carers and service providers.

During the review of the Code following consultation these matters have been further considered, and amendments made where possible.

	<p>The Conduct of Power of Discharge Hospital Manager Hearings – Protocol has been developed in accordance with the Mental Health Act 1983 Code of Practice for Wales and its guiding principles. Both documents have been impact assessed.</p>
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Action Plan

You are advised to use the template below to detail any actions that are planned following the completion of Part A or Part B of the EqIA Toolkit. You should include any remedial changes that have been made to reduce or eliminate the effects of potential or actual adverse impact, as well as any arrangements to collect data or undertake further research.

	Action(s) proposed or taken	Reasons for action(s)	Who will benefit?	Who is responsible for this action(s)?	Timescale
1. What changes have been made as a result of the EqIA?	N/A	N/A	N/A	N/A	N/A
2. Where a Policy may have differential impact on certain groups, state what arrangements are in place or are proposed to mitigate these impacts?	N/A	N/A	N/A	N/A	N/A

<p>3. Justification: For when a policy may have adverse impact on certain groups, but there is good reason not to mitigate.</p>	N/A	N/A	N/A	N/A	N/A
<p>4. Describe any mitigating actions taken?</p>	N/A	N/A	N/A	N/A	N/A
<p>5. Provide details of any actions planned or taken to promote equality.</p>	<p>An Equality Impact statement has been included into the protocol that clearly states that the policy is open to all as appropriate to individual and organisational circumstances</p>	<p>Further specific training may be required over and above mandatory training in order to ensure equality in service provision. The UHB wants to be explicit about its commitment to the equality</p>	<p>Service users and staff. Any individual making the request as well as the organisation's reputation.</p>	<p>Mental Health Division Quality and Safety Group</p>	<p>There is no timescale as this will be responsive to individual need or legislative change.</p>

	We would provide copies of the document in alternative formats, including Welsh if required.	agenda/legislation. This would be to ensure that our protocol is accessible to all.			
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Date:	13 June 2012
Monitoring Arrangements:	<p>The protocol will be monitored by: The Mental Health Act Manager Mental Health Legislation and Governance Group</p> <p>Standards for the Protocol are in accordance with the Mental Health Act 1983 Code of Practice for Wales and are monitored through the Mental Health Act Performance monitoring report and annual performance review of those who will be involved in implementing and exercising the protocol.</p> <p>Regular performance audits are undertaken to ensure that standards are maintained.</p>
Review Date:	3 years from now
Signature of all Parties:	