



**East London**  
NHS Foundation Trust

**Information Governance**

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**Our reference: FOI DA3143**

Thank you for your request for further information received 7<sup>th</sup> June 2019. I am sorry for the delay in responding to you. This has been treated as a request under the Freedom of Information Act 2000.

I am now enclosing a response which is attached to the end of this letter. Please do not hesitate to contact me on the contact details above if you have any further queries.

Yours sincerely,

Ayomide Adediran  
Information Governance Coordinator

If you are dissatisfied with the Trust's response to your FOIA request then you should contact us and we will arrange for an internal review of this decision. If you remain dissatisfied with the decision following our response to your complaint, you may write to the Information Commissioner for a decision under Section 50 of the Freedom of Information Act 2000. The Information Commissioner can be contacted at:

Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

Tel: 0303 123 1113  
Web: [www.ico.org.uk](http://www.ico.org.uk)

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**Request for further information:**

**In relation to question 1, would you be able to send me the policies you are referring to? This may be something like a section 132 policy or mental health act implementation policy. I think reading these policies may answer some of the remaining questions I have – see below.**

Answer:

Please find attached policies.

**For question 2, you answered “...The Trust ensures all human rights are safeguarded when there is a detention under the mental health act which is addressed during the admission process by the admitting nurse” - Can tell me more about how they are addressed?**

Answer:

As the Mental Health Act 1983 and code of practice is Human Right Act compliant, we address these rights by following the code. We are measured against this through CQC Mental Health Act 1983 review inspections.

**In relation to 3c, 4c and 5c, where are these audits and quality reviews reported and are they available to the public?**

Answer:

Please see link for the Trust board meetings where audits and quality reviews reported: <https://www.elft.nhs.uk/About-Us/Trust-Board-Meetings>

At a more local level there may be patient identifiers so these cannot be provided. Section 40 of the Freedom of Information Act 2000 provides an exemption if the information requested is personal data protected by the Data Protection Act. We are therefore exercising our right under Section 40 to not disclose this information as this may contain personal data regarding particular individuals.

**In relation to 3b, 4b and 5b, can you tell me how this information is recorded? For example is it recorded on a form and electronic patient records?**

Answer:

The evidence that patients have been given the necessary information is recorded on the individual electronic patient record.

## Original request

**I am conducting research into the use of the Mental Health Act (MHA; 1983). This is a Freedom of information request for the information relating to the implementation of the Mental Health Act (1983). Please can you send me information on the following:**

**Question 1. What is the trusts policy to safeguard patients' human rights when they are detained under the mental health act (1983)?**

Answer: Whilst there is no specific policy on human rights, all of the Trust's policies reflect the English statutory and common-law positions, that are themselves subject to scrutiny in respect of the European Convention on Human Rights, as the Human Rights Act 1998 dictates that they must be. We have created training specifically for wards to work with using a human rights based approach.

**Question 2. A) How does the trust implement policy to ensure that patients' human rights are safeguarded when detained under the mental health act (1983)? B) How is this information collected? C) How is this information monitored**

Answer: The Trust's practitioners are required to abide by all policies when caring for patients and must partake in training as necessary. The Trust ensures all human rights are safeguarded when there is a detention under the mental health act which is addressed during the admission process by the admitting nurse. The patients are also given a welcome pack that has information and if sectioned, have their rights read under the Mental Health Act. This information is documented as part of the admission process and is monitored via quality reviews and local audits.

**Question 3. A) How does the trust implement policy to ensure that all patients are informed of their rights when they are detained under the mental health act (1983) and when they are admitted voluntarily? B) How is this information collected? C) How is this information monitored?**

Answer: For patients detained under the Mental Health Act 1983, Trust policy notes the requirement under section 132 and states that on commencement of detention, patients should be given a copy of the relevant rights leaflet and at the same time, a verbal explanation should also be given, allowing patients to ask questions and clarify anything that they do not understand, and that assistive technologies and interpretive and advocacy services should be used where appropriate. This information includes the right and means to access an independent mental health advocate and a mental health tribunal. It is also explained that the period of detention can be brought to an end prior to the maximum length of authority. Unless instructed otherwise by the patient, the Trust's mental health law office arranges to send information to the patient's nearest relative as required by section 132(4).

Not all patients have a right to have their advance statement choices about care and treatment followed, but the mental health law department and clinical teams conduct audits to check that patients are being made aware of their rights under the Mental Health Act.

Audits are considered by local directorate management team meetings and at the Trust's Quality Committee.

Where patients are admitted voluntarily they are given welcome packs and are also informed of the above by the admitting nurse. There is also signage on wards.

**Question 4. A) How does the trust implement policy to ensure that patients who are detained under the mental health act (1983) or admitted voluntarily are informed about independent mental health advocates? B) How is this information collected? C) How is this information monitored?**

Answer: The provision of information about independent mental health advocates is included in the rights leaflet referred to in question 3 above. Patients who are admitted voluntarily do not have the right of access to an independent mental health advocate, so there is no policy on that.

The mental health law department and clinical teams conduct audits to check that patients who are detained under the Mental Health Act are being made aware of their right to access an independent mental health advocate. Audits are considered by local directorate management team meetings and at the Trust's Quality Committee.

**Question 5. A) How does the trust implement policy to ensure all patients detained under the mental health act are informed of mental health tribunals? B) How is this information collected? C) How is this information monitored?**

Answer: The provision of information about mental health tribunals is included in the rights leaflet referred to in question 3 above. The mental health law department and clinical teams conduct audits to check that patients who are detained under the Mental Health Act are being made aware of their right to access a mental health tribunal. Audits are considered by local directorate management team meetings and at the Trust's Quality Committee.