

# Ten Point Guide to The Mental Health Act

*Patient rights. Our responsibility.*

- 1 Everyone involved in providing care to patients who are detained under or subject to its powers in the community needs to understand the Mental Health Act and its Code of Practice.
- 2 The Act can apply to someone of any age.
- 3 The Act tells you what you must do, the Code tells you how to do it.

- 4 The Code has forty chapters grouped into seven themes:
  - using the Act
  - protecting patients' rights and autonomy
  - assessment, transport and admission to hospital
  - additional consideration for specific patients
  - care, support and treatment in hospital (including restrictive intervention reduction)
  - leaving hospital
  - professional responsibilities.

- 5 Doctors, approved clinicians, managers, staff in the Trust, approved mental health professionals and local authorities **must** have regard to the Code.



- 6 Chapter one of the Code sets out five overarching principles to always consider when making decisions in relation to care, support or treatment provided under the Act:
  - least restrictive option and maximising independence
  - empowerment and involvement
  - respect and dignity
  - purpose and effectiveness
  - efficiency and equity.

7 If an inpatient is assessed as lacking the capacity to consent to informal admission, the following two questions must be considered:

- Is the patient under continuous supervision and control?
- Would the patient be prevented from leaving if they wanted to (**irrespective of whether or not they currently want to**)?

If the answer to both of those questions is 'yes', then the patient is deprived of their liberty. In such cases the use of the Mental Health Act (or the Deprivation of Liberty Safeguards under the Mental Capacity Act) **must** be considered if delivery of care cannot be adjusted in a way that it does not amount to a deprivation of liberty.

8 It is a legal requirement under sections 132 and 132A that hospitals take steps to ensure that detained patients and those subject to community treatment orders, **understand** their rights. Just providing written information for detained patients is not sufficient.



9 Every patient subject to the Mental Health Act is entitled to access an independent mental health advocate and staff should assist them to do so.

10 The Code is available on the Trust's intranet in the Mental Health Law section, along with other guidance, policies and details of training courses such as 'Overview of Mental Health Law', 'Consent to Treatment' and 'Mental Capacity Act'.

**This leaflet is a quick guide to the MHA and why good knowledge of it is important for all clinical practitioners. For more information, training, support and advice about mental health law contact: [mentalhealthlaw@elft.nhs.uk](mailto:mentalhealthlaw@elft.nhs.uk)**