

## TRUST-WIDE CLINICAL POLICY DOCUMENT

# LEAVE FOR INPATIENTS WHO ARE EITHER MANAGED INFORMALLY UNDER SECTION 131 OF THE MENTAL HEALTH ACT OR UNDER THE GENERAL POWERS OF THE MENTAL CAPACITY ACT (SECTIONS 5 & 6)

Policy Number:	SD01
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Approving Committee:	Executive Committee
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Lead Executive Director:	Executive Director of Nursing
Lead Author(s):	Senior Nurse

## TRUST-WIDE CLINICAL POLICY DOCUMENT

2015 – Version 1

Quality, recovery and  
wellbeing at the heart  
of everything we do

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**LEAVE FOR INPATIENTS WHO ARE EITHER MANAGED INFORMALLY UNDER SECTION 131 OF THE MENTAL HEALTH ACT OR UNDER THE GENERAL POWERS OF THE MENTAL CAPACITY ACT (SECTIONS 5 & 6)**

**Further information about this document:**

Document name	<b>CORPORATE POLICY AND PROCEDURE FOR LEAVE FOR INPATIENTS WHO ARE EITHER MANAGED INFORMALLY UNDER SECTION 131 OF THE MENTAL HEALTH ACT OR UNDER THE GENERAL POWERS OF THE MENTAL CAPACITY ACT (SECTIONS 5 &amp; 6)</b>
Document summary	<p>This document explains:</p> <ul style="list-style-type: none"> <li>• Why the policy is necessary (rationale)</li> <li>• To whom it applies and where and when it should be applied (scope)</li> <li>• The underlying beliefs upon which the policy is based (principles) <ul style="list-style-type: none"> <li>• The standards to be achieved (policy)</li> </ul> </li> <li>• How the policy standards will be met through working practices (procedure)</li> </ul>
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Published by Copies of this document are available from the Author(s) and via the trust's website	<p><b>Mersey Care NHS Trust</b> 8 Princes Parade Princes Dock St Nicholas Place Liverpool L3 1DL</p> <p>Your Space Extranet: <a href="http://nww.portal.merseycare.nhs.uk">http://nww.portal.merseycare.nhs.uk</a> Trust's Website <a href="http://www.merseycare.nhs.uk">www.merseycare.nhs.uk</a></p>
To be read in conjunction with	<ul style="list-style-type: none"> <li>• SA02: Risk management policy &amp; strategy</li> <li>• SA03: Reporting, management and review of adverse incidents</li> <li>• SA03: Reporting, management and review of adverse incidents</li> <li>• SA05: Service users missing from an inpatient area</li> <li>• SA07: Health, safety and welfare</li> <li>• SA10; Clinical risk assessment tools (to be applied in conjunction with portfolio of risk assessment tools)</li> <li>• SD29: Physical health care of service users</li> <li>• HR21: Recruitment and selection</li> </ul>

**This document can be made available in a range of alternative formats including various languages, large print and braille etc**

**Version Control:**

			Version History:
Version 1		Approved	March 2015

**SUPPORTING STATEMENTS** – this document should be read in conjunction with the following statements:

### **SAFEGUARDING IS EVERYBODY'S BUSINESS**

All Mersey Care NHS Trust employees have a statutory duty to safeguard and promote the welfare of children and vulnerable adults, including:

- being alert to the possibility of child/vulnerable adult abuse and neglect through their observation of abuse, or by professional judgement made as a result of information gathered about the child/vulnerable adult;
- knowing how to deal with a disclosure or allegation of child/adult abuse;
- undertaking training as appropriate for their role and keeping themselves updated;
- being aware of and following the local policies and procedures they need to follow if they have a child/vulnerable adult concern;
- ensuring appropriate advice and support is accessed either from managers, *Safeguarding Ambassadors* or the trust's safeguarding team;
- participating in multi-agency working to safeguard the child or vulnerable adult (if appropriate to your role);
- ensuring contemporaneous records are kept at all times and record keeping is in strict adherence to Mersey Care NHS Trust policy and procedures and professional guidelines. Roles, responsibilities and accountabilities, will differ depending on the post you hold within the organisation;
- ensuring that all staff and their managers discuss and record any safeguarding issues that arise at each supervision session

### **EQUALITY AND HUMAN RIGHTS**

Mersey Care NHS Trust recognises that some sections of society experience prejudice and discrimination. The Equality Act 2010 specifically recognises the *protected characteristics* of age, disability, gender, race, religion or belief, sexual orientation and transgender. The Equality Act also requires regard to socio-economic factors including pregnancy /maternity and marriage/civil partnership.

The trust is committed to equality of opportunity and anti-discriminatory practice both in the provision of services and in our role as a major employer. The trust believes that all people have the right to be treated with dignity and respect and is committed to the elimination of unfair and unlawful discriminatory practices.

Mersey Care NHS Trust also is aware of its legal duties under the Human Rights Act 1998. Section 6 of the Human Rights Act requires all public authorities to uphold and promote Human Rights in everything they do. It is unlawful for a public authority to perform any act which contravenes the Human Rights Act.

Mersey Care NHS Trust is committed to carrying out its functions and service delivery in line with a Human Rights based approach and the FREDA principles of **F**airness, **R**espect, **E**quality **D**ignity, and **A**utonomy

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## 1. PURPOSE AND RATIONALE

1.1 Hospital inpatient service users who do not satisfy the criteria for detention under the Mental Health Act are either:-

admitted as an informal inpatient under section 131 of the Mental Health Act\*,

or...

admitted under the Mental Capacity Act where they lack capacity and/or are not trying to leave/refuse treatment.

1.2 The term Informal is exclusive to the Mental Health Act. Since the introduction of the Mental Capacity Act in 2007 the only hospital inpatients who qualify for informal status are those who have capacity and give their informed consent to hospital admission and care/treatment).

1.3 Hospital inpatient service users who are managed under the Mental Capacity Act are either managed under the general powers of the Act (sections 5 & 6) OR under Deprivation of Liberty Safeguards powers.

1.4 This policy and procedure considers the management of leave for those hospital inpatients (forthwith, collectively referred to as Qualifying service users) who are:-

Admitted informally under the Mental Health Act

Managed under the general powers (section 5 & 6) of the Mental Capacity Act.

Qualifying service users admitted to the inpatient wards “ who are not legally detained have the right to leave at any time. They cannot be required to ask permission to do so, but may be asked to inform staff when they wish to leave the ward.” (Mental Health Act, Code of Practice, 2008 ed, para. 21.36).

Consequently, in most instances there is a mutually agreed planned move towards discharge and part of their care plan involves taking periods of leave from the inpatient ward in preparation for discharge. This policy aims to give a clear understanding of the trusts responsibilities to work in collaboration with service users and carers in ensuring leave arrangements are effectively planned and that support is available during periods of leave and that there is a process of review to better prepare the service user for discharge. The policy is underpinned by appropriate clinical risk assessment and service user safety.

1.5 This procedure should be read in conjunction with the following documents

- SA02: Risk management policy & strategy
- SA03: Reporting, management and review of adverse incidents
- SA05: Service users missing from an inpatient area
- SA07: Health, safety and welfare
- SA10; Clinical risk assessment tools (to be applied in conjunction with portfolio of risk assessment tools)
- SD29: Physical health care of service users

- HR21: Recruitment and selection

This document explains:

- why the policy is necessary (rationale)
- to whom it applies and where and when it should be applied (scope)
- the underlying beliefs upon which the policy is based (principles)
- the standards to be achieved (policy)
- how the policy standards will be met through working practices (procedure).

## 1.6 Rationale (Why)

A Qualifying service user may have the right to leave hospital at any time (unless at the time s/he exercises this right s/he satisfies the criteria for a Mental Health Act assessment). In most instances, however, it will be more appropriate to mutually plan periods of leave in order that appropriate support can be organised for service users.

The purpose of this policy and procedure is to establish a lawful framework that ensures:

- periods of leave are agreed between staff, service users and carers subject to an appropriate risk assessment
- support is provided for service users and carers during periods of leave
- any medication is available during periods of leave
- a review of the period of leave is undertaken in order that care plans can be amended to better prepare the service user for discharge

## 1.7 Principles (Beliefs)

This policy and procedure is based on the belief that service users and carers have a right to expect appropriate arrangements to be in place for the continuing care of informal inpatients qualifying service users during periods of leave

## 2. SCOPE

This policy and procedure applies to all qualifying inpatients receiving care informally in Mersey Care NHS Trust and the staff caring for them. It applies to extended periods of leave away from the ward incorporating an overnight stay. However, it would be good practice to follow the practice set out within this policy for other shorter periods of leave.

## 3. DUTIES

### 3.1 Chief Executive

The Chief Executive has overall accountability for health and safety management and will delegate responsibility (through directors, managers, staff) to ensure that adequate and appropriate arrangements are made available to allow the Trust to meet its statutory obligations.

### 3.2 Executive Director of nursing

Is responsible, to ensure that all managers are aware of this policy and are supported in implementing the policy with staff. They would work alongside the Director for Patient Safety who as Chair to the Health and Safety Committee reviews all incidents related to service user safety.

### **3.3 Clinical divisions**

The clinical divisions are responsible for ensuring effective leave arrangements are in place for informal service users within the service for which they have overall responsibility and ensure adherence to this policy.

### **3.4 Matrons and Ward Managers**

Are responsible for ensuring that the staff who report to them comply fully with this policy and follow the principles of clinical risk assessment and work within the Mental Health Act.

### **3.5 Nursing staff**

Have a responsibility to raise requests for leave at the multi-disciplinary meeting or discuss with relevant staff.

### **3.6 Multi-professional Disciplinary Team**

Have a responsibility to agree appropriateness of leave

### **3.7 Key workers**

Have a responsibility to develop plans for leave with service users/carers and recurrent staff, monitor leave plans and review leave with service users.

### **3.8 Clinical staff**

All trust staff have a duty to familiarise themselves with this policy and comply fully with it.

## **4. PROCESS / PROCEDURE**

4.1 All periods of leave should be discussed and a risk assessment undertaken by members of the multi-disciplinary team (the nurse-in charge and consultant at a minimum) with the involvement of service users and carers and documented in the clinical notes.

A plan for leave should be agreed between staff, service users and carers including:

- Period of leave and a return date and time
- Contact details for the service user whilst on leave
- A phone number for the service user and carers to contact the ward whilst on leave.
- Arrangements for providing medication
- Any support needed from health professionals whilst in the community and that the relevant team is contacted
- A contingency plan if the service user fails to return from leave, ensuring that the service user and any carer are made aware of how to contact appropriate clinical support even if this help is required 'out of hours'.



4.2 Before leaving a ward for a period of leave the nurse in charge should ensure that a service user is assessed for:

- Where they are going
- When they will be returning
- How they are feeling
- Whether they have any feelings of harming themselves or others
- Whether they expect any problems during the period of leave

If any concerns are elicited the nurse in charge should review the plan for leave with the service user and carer if appropriate and discuss as to whether it should go ahead at that time and ascertain if the service user will wait until such time that leave can be safely taken.

If the service user is not prepared to wait, and if the nurse in charge considers that leave at this time constitutes a risk of harm to the service user and/or other(s) OR that the service user's own health and/or safety would be at risk, a duty of care is owed to that service user to conduct a Mental Health Act assessment.

If the service user is not prepared to undergo a Mental Health Act assessment the nurse in charge must consider the need to apply the relevant Mental Health Act holding power (eg: section 5(4)) at that point.

Whilst on leave, if any difficulties arise, the plan for leave should be reviewed and changes agreed between the service user and care-coordinator/named nurse.

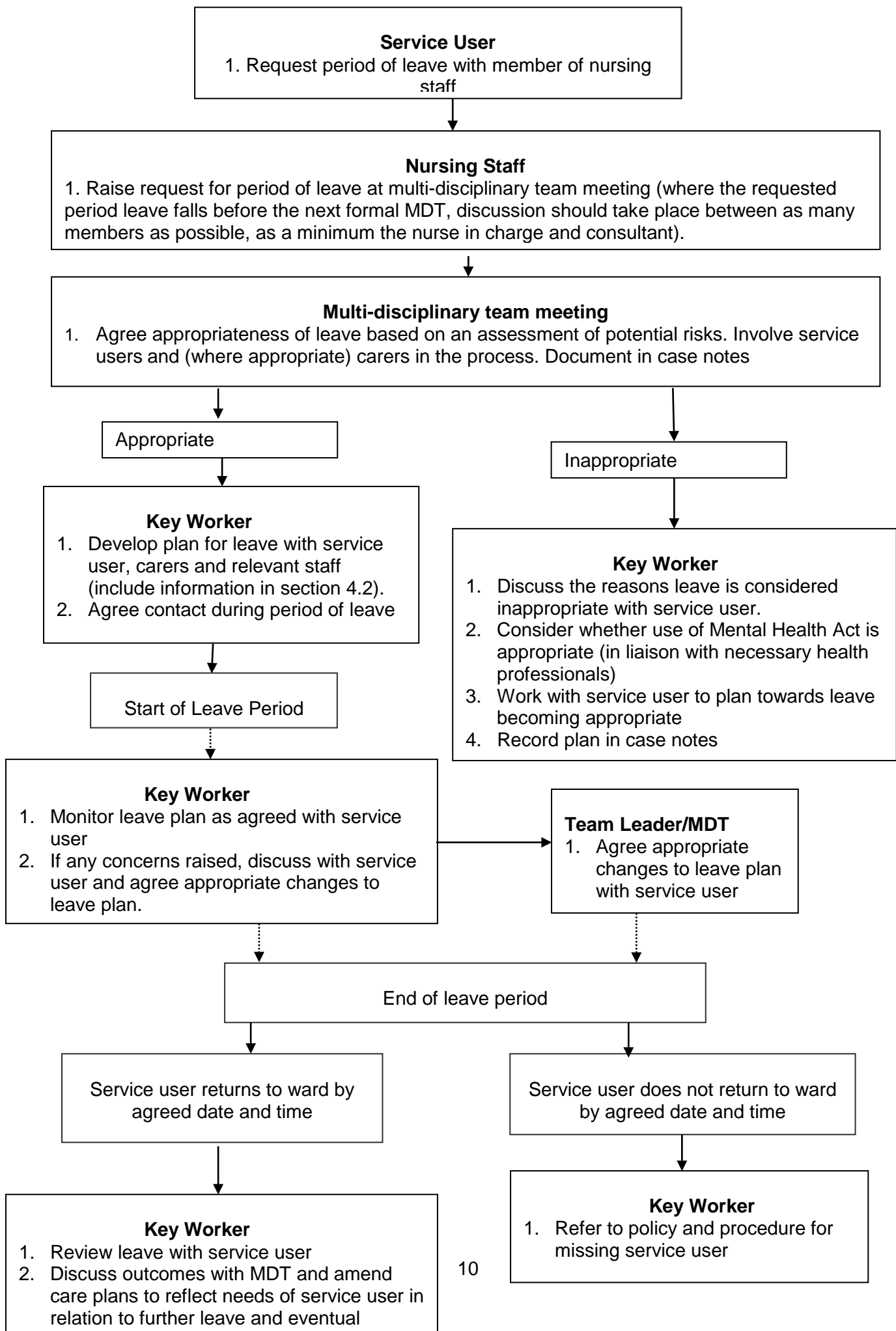
A review should be undertaken upon return to the ward area to enable care plans to be amended to reflect the needs of the service user in relation to further leave and eventual discharge. Service users, carers and other health professionals who had contact whilst on leave should be involved in the review

Where a service user leaves an inpatient area unplanned or does not return from planned leave, the policy and procedure for missing service users should be followed.

#### 4.3 **Corporate Procedure (How)**

This is an example procedure for Mersey Care NHS Trust. It is intended to provide an example framework for services to meet the policy statements. It is appropriate to develop alternative local procedures if needed that take account of local working contexts but must, however, continue to meet the key standards set out in the policy (section 4).

Flow chart illustrating the corporate procedure for arranging leave for a qualifying service user who states an intention to leave BUT agrees (or if lacking capacity, does not object, to the following process (If they do NOT agree or DO object, refer to 4.5 and 4.6 above)



## **5. CONSULTATION**

This policy was originally developed in 2005 drawing on documents from the former Trust areas of Mersey Care NHS Trust. The review of the policy has involved wide consultation with appropriate services through their respective governance arrangements. Detailed procedures and protocols are also extant in service areas that are compliant with the expectations described in this policy. Further review has involved the senior nurse group within the trust.

## **6. TRAINING AND SUPPORT**

The Executive Director of Nursing will ensure the Learning and Development Team make available appropriate training to staff who require it which best supports leave described within this policy based as the Trusts training needs analysis.

## **7. MONITORING**

- 7.1 The Divisions will monitor the number of reported incidents related to leave arrangements within their area via there adverse incidents governance groups. This will include 6 monthly analysis of indirect discrimination re analysis by protected characteristic
- 7.2 Auditable standards are care plans and risk assessments and may include reported number of service users who do not return from leave as planned. Modern matrons and ward managers should review all incident reports, risk assessments, actions taken, interventions and care plans as appropriate.

## **8. SUPPORTING DOCUMENTS**

- 8.1 Mental Health Act Code of Practice, 2008ed,

## Equality and human Rights Analysis

# Equality and Human Rights Analysis

<p><b>Title:</b></p> <p>Corporate policy and procedure for leave for inpatients who are either managed informally under section 131 of the mental health act or under the general powers of the mental capacity act (sections 5 &amp; 6)</p>
<p><b>Area covered:</b> Trust wide</p>

<p><b>What are the intended outcomes of this work?</b></p> <p>To ensure appropriate arrangements are in place to support informal inpatients during periods of leave</p>
<p><b>Who will be affected?</b></p> <p>People who use services.</p>

<p><b>Evidence</b></p>
<p><b>What evidence have you considered?</b></p> <p>Policy only</p>
<p><b>Disability including learning disability</b></p> <p>see cross cutting</p>
<p><b>Sex</b></p> <p>see cross cutting</p>
<p><b>Race</b></p> <p>see cross cutting</p>
<p><b>Age</b></p> <p>see cross cutting</p>
<p><b>Gender reassignment (including transgender)</b></p>

see cross cutting
<b>Sexual orientation.</b> see cross cutting
<b>Religion or belief</b> see cross cutting
<b>Pregnancy and maternity.</b> see cross cutting
<b>Carers</b> see cross cutting
<b>Other identified groups</b>  No other identified
<b>Cross cutting</b>  Monitoring process needs to include equality - leave not approved staff incident. Protected characteristics.

<b>Human Rights</b>	<b>Is there an impact? How this right could be protected?</b>
<b>Right to life (Article 2)</b>	Supportive of a human rights based approach The processes in place recognise the need for the Trust to enable people who are in hospital 'informally' to take leave whilst recognising the Trusts responsibility to protect life by ensuring safe guards re suicidal risk has been addressed.
<b>Right of freedom from inhuman and degrading treatment (Article 3)</b>	Supportive of a human rights based approach
<b>Right to liberty (Article 5)</b>	Supportive of a human rights based approach This policy ensures processes are in place to protect people who are able to take 'leave' from hospital are supported to do so .
<b>Right to a fair trial (Article 6)</b>	Does not engage
<b>Right to private and family life (Article 8)</b>	Supportive of Human rights based approach This policy supports people taking leave from the inpatient setting to enable the process of successful discharge home .

<b>Right of freedom of religion or belief (Article 9)</b>	Does not engage
<b>Right to freedom of expression</b> <b>Note: this does not include insulting language such as racism (Article 10)</b>	Does not engage
<b>Right freedom from discrimination (Article 14)</b>	Does not engage

### Engagement and involvement

No indication of Service user/ Carer consultation in the development of the policy

Internal consultation only

### Summary of Analysis

#### Eliminate discrimination, harassment and victimisation

With the inclusion of the requirement to analyse the incident recording of leave unable to be granted or restricted by protected characteristic will seek to ensure any indirect discrimination is highlighted and addressed.

#### Advance equality of opportunity

With the inclusion of the requirement to analyse the incident recording of leave unable to be granted or restricted by protected characteristic will seek to ensure there is an equality of opportunity within the in patient area

#### Promote good relations between groups

With the inclusion of the requirement to analyse the incident recording of leave unable to be granted or restricted by protected characteristic will seek to maintain good relations between groups within the in patient areas.

### What is the overall impact?

### Addressing the impact on equalities

This policy seeks to ensure that people who are using our inpatient facilities are supported to have leave from the ward area and to set systems in place to enable analysis if this is not met.

The process will enable the Trust to address any Human Rights issues re leave from ward area not being met and to ensure the possibility of indirect discrimination is examined and positive action being taken when required.

### Action planning for improvement

See below

### For the record

**Name of persons who carried out this assessment:**

Jayne Bridge  
Meryl Cuzak Equality and Human Rights Lead

**Date assessment completed:**

6<sup>th</sup> February 2015

**Name of responsible Director/Director General:**

Ray Walker Executive Director of Nursing

**Date assessment was signed:**

March 2016

# Action plan template

Category	Actions	Target date	Person responsible and their Division
<b>Monitoring, evaluating and reviewing</b>	To include the requirement to analyse the incidents of leave not occurring as prescribed by protected characteristic using DATIX incident monitoring. At least once every 6 months.	On-going	Head of Nursing. (Corporate division )
	Identify and prescribe positive action from monitoring process as necessary	On-going	
	To place on relevant divisional equality action plans for monitoring.	On-going	



## IMPLEMENTATION PLAN

### Procedural Document Implementation Plan Template



### IMPLEMENTATION PLAN FOR THE CORPORATE POLICY; CORPORATE OR LOCAL PROCEDURE; CORPORATE OR LOCAL GUIDELINE OR CORPORATE OR CLINICAL PROTOCOL

DOCUMENT NUMBER	SD 01
RATIFYING COMMITTEE	Corporate Procedural Document Review Group
DATE RATIFIED	
NEXT REVIEW DATE	April 2017

**ACCOUNTABLE DIRECTOR:** Executive Director of High Secure Services and Nursing

**DOCUMENT AUTHOR:** Head of Nursing

An implementation plan should be completed for all procedural documents. This will ensure that a systematic approach is taken to the introduction of procedural documents in order to secure effective working practices. NB The implementation plan should include actions to address issues identified through the equality and diversity impact assessment process as well as those specific to the policy itself.

The following template provides a checklist to be used as a starting point for thinking about implementation in a systematic manner. It is evidence-based and draws on the work of the Promoting Action on Clinical Effectiveness (PACE) programme (Dunning et al, 1999).

Dunning et al (1999) Experience Evidence and Everyday Practice, Kings Fund

	Issues identified / Action to be taken	<i>Time-Scale</i>
<p><b>1. Co-ordination of implementation</b></p> <ul style="list-style-type: none"> <li>How will the implementation plan be co-ordinated and by whom?</li> </ul> <p><i>Clear co-ordination is essential to monitor and sustain progress against the implementation plan and resolve any further issues that may arise.</i></p>	<p>The Head of Nursing will send the reviewed policy to the modern matrons and lead nurses for them to alert clinical staff in their areas of responsibility that this policy has been reviewed and the latest version is available on the trust website</p>	<p>April 2015</p>
<p><b>2. Engaging staff</b></p> <ul style="list-style-type: none"> <li>Who is affected directly or indirectly by the policy?</li> <li>Are the most influential staff involved in the implementation?</li> </ul> <p><i>Engaging staff and developing strong working relationships will provide a solid foundation for changes to be made.</i></p>	<p>Clinical staff are most directly affected by this policy and are key to its implementation</p>	<p>On-going</p>
<p><b>3. Involving service users and carers</b></p> <ul style="list-style-type: none"> <li>Is there a need to provide information to service users and carers regarding this policy?</li> <li>Are there service users, carers, representatives or local organisations who could contribute to the implementation?</li> </ul> <p><i>Involving service users and carers will ensure that any actions taken are in the best interest of services users and carers and that they are better informed about their care.</i></p>	<p>There is a need to provide information to service users and carers at the point of delivery of care including at admission and when planning discharge.</p>	<p>On-going</p>

<p><b>4. Communicating</b></p> <ul style="list-style-type: none"> <li>• What are the key messages to communicate to the different stakeholders?</li> <li>• How will these messages be communicated?</li> </ul> <p><i>Effective communication will ensure that all those affected by the policy are kept informed thus smoothing the way for any changes. Promoting achievements can also provide encouragement to those involved.</i></p>	<p>Informal service users have the right to leave the ward at any time</p> <p>However risk assessment should inform all decisions for leave to commence</p> <p>Service users and their carers where appropriate must be involved in planning leave</p> <p>Staff induction , ward information packs are in place</p>	
<p><b>5. Resources</b></p> <ul style="list-style-type: none"> <li>• Have the financial impacts of any changes been established?</li> <li>• Is it possible to set up processes to re-invest any savings?</li> <li>• Are other resources required to enable the implementation of the policy eg. increased staffing, new documentation?</li> </ul> <p><i>Identification of resource impacts is essential at the start of the process to ensure action can be taken to address issues which may arise at a later stage.</i></p>	<p>There are no additional costs as a result of this review</p>	
<p><b>6. Securing and sustaining change</b></p> <ul style="list-style-type: none"> <li>• Have the likely barriers to change and realistic ways to overcome them been identified?</li> <li>• Who needs to change and how do you plan to approach them?</li> <li>• Have arrangements been made with service managers to enable staff to attend briefing and training sessions?</li> <li>• Are arrangements in place to ensure the induction of new staff reflects the policy?</li> </ul> <p><i>Initial barriers to implementation need to be addressed as well as those that may affect the on-going success of the policy</i></p>	<p>There are no changes to practice required of this policy review</p>	

<p><b>7. Evaluating</b></p> <ul style="list-style-type: none"> <li>• What are the main changes in practice that should be seen from the policy?</li> <li>• How might these changes be evaluated?</li> <li>• How will lessons learnt from the implementation of this policy be fed back into the organisation?</li> </ul> <p><i>Evaluating and demonstrating the benefits of new policy is essential to promote the achievements of those involved and justifying changes that have been made.</i></p>	<p>There are systems established within services to review incidents relating to leave from the inpatient areas which feed into the adverse incident groups which in.</p> <p>Record keeping audits/ monitoring are established in the Divisions auditable standards are care plans and incident reports</p>	
<p><b>8. Other considerations</b></p>		

## TRAINING NEEDS ANALYSIS

### 9. Training Needs Analysis

Please tick as appropriate

There <b>is no</b> specific training requirements- awareness for relevant staff required, disseminated via appropriate channels (Do not continue to complete this form-no formal training needs analysis required)	✓
There <b>is</b> specific training requirements for staff groups (Please complete the remainder of the form-formal training needs analysis required- link with learning and development department.	

Staff Group	✓ if appropriate	Frequency	Suggested Delivery Method (traditional/ face to face / e-learning/handout)	Is this included in Trustwide essential learning programme for this staff group (✓ if yes)
Career Grade Doctor				
Training Grade Doctor				
Locum medical staff				
Inpatient Registered Nurse				
Inpatient Non- registered Nurse / Care Assistant				
Community Registered Nurse				
Community Non Registered Nurse / Care Assistant				
Psychologists / Pharmacists				
Therapists				
Clinical bank staff regular worker				
Clinical bank staff infrequent worker				
Non-clinical patient contact				
Non-clinical non patient contact				

Please give any additional information impacting on identified staff group training needs (if applicable)

Please give the source that has informed the training requirement outlined within the policy i.e. National Confidential Inquiry/NICE guidance etc.

**ADDITIONAL INFORMATION FOR CONSIDERATION:**

**NAME** .....

**DATE** .....