



<b>Standard Operational Procedure No:</b>	<b>SOP 06.22</b>	<b>For Electronic Service, Completion and Signing of Statutory Mental Health Act Forms V2</b>	
<b>Effective Date:</b>	<b>31<sup>st</sup> March 2022</b>	<b>Revision Date:</b>	<b>31<sup>st</sup> January 2022</b>
<b>Supersedes</b>	<b>1<sup>st</sup> February 2021 V1</b>		
<b>Prepared by:</b>	<b>Samantha Dawson</b>	<b>Date:</b>	<b>February 2022</b>
<b>Approved by:</b>	<b>Mental Health Law Governance Group</b>	<b>Date:</b>	
		<b>Date:</b>	
		<b>Date:</b>	
<b>Ratified by:</b>	<b>Trust Board</b>	<b>Date:</b>	<b>10<sup>th</sup> March 2022</b>
<b>Support:</b>	<b>If you require any further clarification on the processes in this SOP, please contact:</b>	<b>Samantha Dawson</b> <b>Mental Health Law Team Manager</b> <b>Tel: 01782 441643</b> <a href="mailto:Samanthaj.dawson@combined.nhs.uk">Samanthaj.dawson@combined.nhs.uk</a>	

## Standard Operational Procedure – For Electronic Service, Completion and Signing of Statutory Mental Health Act Forms

### PURPOSE

The purpose of this protocol is to support the safe and effective service of Mental Health Act statutory documentation via electronic transmission.

This protocol has been written based on National Guidance published by the Department of Health and Social Care and with the consultation of Approved Mental Health Professionals (AMHP) Managers from Staffordshire County Council and Stoke on Trent City Council. This guidance along with the Mental Health (Hospital, Guardianship and Treatment) (England) Regulations 2008 as amended by the Mental Health (Hospital, Guardianship and Treatment) (England) (Amendment) Regulations 2020 come into effect on 1<sup>st</sup> December 2020 and is not restricted to circumstances related to the COVID19 pandemic, although the pandemic gave rise for the need of more flexibility for clinicians and hospital managers with regards to the use of electronic forms. Please be aware that it is intended for the Mental Health Act (MHA) Code of Practice and Reference Guide to be updated and republished in line with the changes, but a publication date has not yet been announced. In the meantime, please bring any contradictions to the attention of the Mental Health Law Team Office at Harplands Hospital.

There will be a grace period of 2 months starting 1 December 2020, during which the old versions of the statutory forms can be used when submitting in hard copy, but not when communicating electronically. **After 1 February 2021 the new forms, containing new wording must be used in all cases.**

### BACKGROUND AND SCOPE

“Service” of a document under the MHA means the formal handing over from one person or body to another. Similar terms such as “furnishing” or “sending” also appear in the MHA and are encompassed under the umbrella term “service”.

Most MHA documents are not reliant on being “served” to take legal effect e.g. treatment certificates, discharge forms, Community Treatment Order (CTO) documents. However, some forms only take legal effect once they have been served to a person or body:

- Applications for detention, renewal documentation or CTO extension forms and doctors holding power reports must all be served on the hospital managers before they can be acted upon.
- Nearest relative applications for discharge, or notifications of intention to discharge only take effect once service on the hospital managers (hard copy delivered to the mental health law team office).
- CTO recalls take effect once they have been served on the patient. Where the recipient is a patient - in all such cases, statutory forms and other notifications for the information of the patient must continue to be served in hard copy. You should offer the patient the option of also receiving the form electronically and if the patient wishes to receive electronic communication this is an additional means of providing the information to the patient, considering whether reasonable adjustments need to be made.

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The nurse in charge of the ward and MHA administration staff are the only authorised recipients, acting on behalf of the hospital managers.

It is important to note the following points:

- Where an MHA assessment has been conducted remotely in relation to COVID-19 this guidance must be used in conjunction with local guidance to video assessments and NHSE's legal guidance.
- **From 1<sup>st</sup> February 2021** if you intend to complete a statutory form either hard copy or electronically, you **MUST** use the new version of the form (published December 2020) **any old forms submitted after 1<sup>st</sup> February 2021 which are not completed and submitted on the new version will NOT be valid or accepted.**
- Electronic versions of the statutory forms do not replace the use nor validity of a hard copy.
- This protocol does not replace any existing process/procedure for the serving or completion of hard copy statutory forms.

## THE REGULATIONS

The amended regulations allow statutory forms to be served electronically, but only where the receiving body, authority or person agrees to accept the electronic service. However, there are a couple of exceptions to this:

- Where an Approved Mental Health Professional (AMHP) wishes to serve an application for detention via electronic transmission. In this case, electronic communication to the authority, body or person upon whom it is to be served, is always permitted (no prior agreement needed). Note that although Hospital Managers are not entitled to refuse acceptance of an otherwise validly made application solely on the grounds of its being electronically completed and conveyed, it is still the case that acceptance is dependent on the hospital having the capacity and appropriate facilities for the patient, as well as on the forms being correctly and fully completed.
- Where the recipient is a patient. In all such cases, statutory forms, such as Community Treatment Order Recall (CTO3) forms, must continue to be served in the usual way (hard copy). Electronic communication can, however, be as an additional means of providing the patient with the information, if that is their preference.

Service is considered to have taken place immediately after it is sent to the authorised person to receive it.

## ELECTRONIC SIGNATURES

North Staffordshire Combined Healthcare NHS Trust would prefer those signing the mental health act statutory forms electronically to do so with a scan or photo of a wet ink signature.

## RECTIFICATION OF ELECTRONIC STATUTORY FORMS

Any rectifications required, including those under s.15 MHA, will continue to require completion as soon as possible, or within 14 days of the patient's admission where applicable. The MHA office will contact authors to make the necessary arrangements to complete any amendments. Amendments are to be returned to the MHA office by the person who was required to make the rectification. This

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will be documented through an audit trail, to show who edited the form, when they made the edit and what was added and/or omitted.

Staff completing forms electronically are advised to store the word version securely until the 14 day rectification period has lapsed.

### **WHERE THE RECEIPT IS THE PATIENT**

Statutory forms, such as CTO recall documents, must continue to be served by hardcopy. However, electronic communication can be used **in addition** if this is the patients preferred method of receiving information. In circumstances where electronic communication has also been used, staff are expected to clearly document within the patients notes the date and time the hardcopy of the document was served to the patient and subsequent copy emailed.

### **CONVEYANCE**

Where an AMHP has made an application for detention electronically and has delegated the conveyance of the patient, for example to ambulance staff, a paper copy of the form is not needed to indicate conveyance is lawful so long as the AMHP can provide evidence of the fully completed statutory detention paperwork.

See Appendix A – West Midlands Ambulance Service – Clinical Note to Staff – Guidance on the electronic communication of statutory forms under the Mental Health Act.

### **SENDING APPLICATIONS FOR DETENTION ELECTRONICALLY**

In accordance with s.6 MHA, it is the responsibility of the AMHP to support their application with two medical recommendations. These documents must be sent to the MHA office AND admitting ward as a package. Whether electronically, hardcopy or a mixture of both. AMHPs should contact the admitting ward ahead of securely emailing documents to clarify the email (See appendix C) which the documents will be sent to. Especially when admitting to Forensic units.

### **NEAREST RELATIVE APPLICATIONS FOR DISCHARGE**

The Trust will continue to accept nearest relative applications for discharge via **hard copy only**. The only authorised recipients are MHA admin staff. Electronic communication can be used by the nearest relative **in addition** to sending documents via post or hand delivery in the first instance.

### **PROCEDURE**

Doctors and AMHPs taking part in face to face mental health act assessments for detention need to continue to comply with paragraph 14.44 of the MHA Code of Practice and 'apply professional judgment and reach decisions independently of each other, but in a framework of co-operation and mutual support'. No remote video assessments.

In accordance with s.6 MHA an AMHP application is founded on the necessary medical recommendations. As such the AMHP must ensure their application is accompanied by the supporting medical recommendations and are retained and sent to the receiving hospital as a package, whether electronically, in hardcopy, or a mixture of both.

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## REFERRAL FOR MENTAL HEALTH ACT ASSESSMENT

Where it is intended to make a referral for a Mental Health Act (MHA) assessment and the assessing doctor intends to complete an electronic medical recommendation the process is that **the referrer will follow the usual referral pathways but make clear at referral that there is an intention to provide an electronic medical recommendation.**

### Stoke on Trent Residents:

[StokeMHARecommendations@stoke.gov.uk](mailto:StokeMHARecommendations@stoke.gov.uk) **only to be used to provide an electronic medical recommendation after following the usual referral pathway as outlined above.**

[In Hours - Tel: 01782 237790](tel:01782237790)

[Out of Hours – Stoke EDT – 01782 234 234 – following the options](tel:01782234234)

### Staffordshire Residents:

In order to try and avoid numerous handovers of the electronic documentation along the referral pathway it will then be the responsibility of the assessing Staffordshire AMHP to make direct contact with the author of the electronic medical recommendation and advise them of an appropriate email to which the document should be sent (usually the AMHP's own work email, dependent on them being able to access this at that time).

[In Hours - Tel: 0300 111 8010](tel:03001118010)

[Out of Hours – Staffs EDS - 0345 6042886](tel:03456042886)

## RECEIPT AND SCRUTINY ON THE WARD

The nurse receiving the document being served either electronically or hard copy remains responsible for:

- Initial scrutiny to check validity of the documents received (see appendix B below).
- Ensuring that the mental health law team have been copied into the email they have received, if not, forwarding the email to [mentalhealthlawteam@combined.nhs.uk](mailto:mentalhealthlawteam@combined.nhs.uk) email inbox.

Forms which are to be served and sent electronically should be emailed securely to [mentalhealthlawteam@combined.nhs.uk](mailto:mentalhealthlawteam@combined.nhs.uk) **and** for patients who are liable to be detained in hospital, the ward to which the patient is to be admitted (see Appendix C for list of ward contact details)

The subject line of the email should include:

- The patients initials
- A description of the attached i.e. "Section 3 documents".

Where a form has been sent via email and it does not appear to have been sent to [mentalhealthlawteam@combined.nhs.uk](mailto:mentalhealthlawteam@combined.nhs.uk) the recipient must forward the form to that address as a matter of urgency.



The MHA Office remains responsible for:

- Monitoring the [mentalhealthlawteam@combined.nhs.uk](mailto:mentalhealthlawteam@combined.nhs.uk) email inbox.
- Detailed second scrutiny of the documents received.
- Processing any rectifications required within the 14 day timescale.
- Noting which forms are original's and which are electronic and arranging for medical scrutiny where applicable to do so.
- Upload forms received electronically to the patients Electronic Patient Record as soon as practicable.
- Monitor and maintain an audit trail for any rectifications, including those under s.15.

**Statutory Forms – available from Combined Intranet – CAT – Quality Tab – Mental Health Law Team.**

# Clinical Notice



To: **ALL STAFF**  
Date: **30 November 2020**  
Document Number: **CN/445**

## Electronic forms for use under the Mental Health Act (MHA) - GOV.UK

### ***Guidance on the electronic communication of statutory forms under the Mental Health Act - GOV.UK ([www.gov.uk](http://www.gov.uk))***

Staff will be aware that previous guidance relating to the transportation of patients detained under the MHA (1983) amended 2007, has always stipulated the absolute requirement that “section papers **MUST** always accompany the patient in the conveying vehicle”. Following an amendment to the legislation this requirement has now ceased with the delegated authority able to now be given verbally from an Approved Mental Health Professional (AMHP) to WMAS staff.

*Where an AMHP submits an application for detention electronically and then delegates conveyance of the patient, for example to ambulance staff, a paper copy of the form is not needed to indicate that conveyance is lawful so long as the AMHP can provide evidence of a completed application supported by the necessary medical recommendations. In line with paragraph 17.26 of the code of practice, agencies should agree local policies and procedures regarding the nature of authorisation given by AMHPs (and others) when authorising people to transport patients on their behalf.*

[Guidance on the electronic communication of statutory forms under the Mental Health Act - GOV.UK \(\[www.gov.uk\]\(http://www.gov.uk\)\)](http://www.gov.uk)

With immediate effect, it is now permissible for staff to transport detained patients (under the MHA) without physical copies of the detention papers, providing –

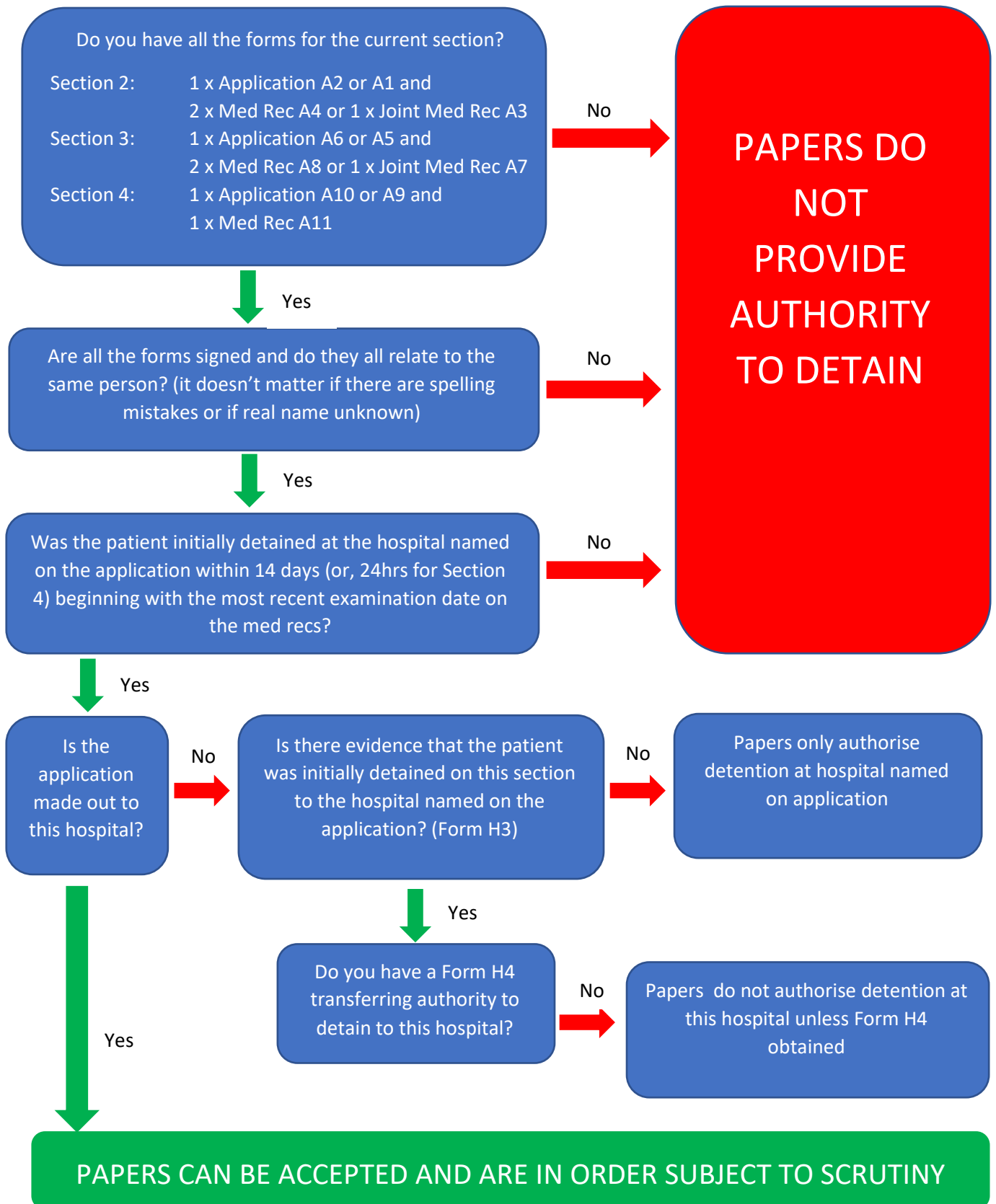
- WMAS staff are assured the authority to delegate the transportation is received verbally via an AMHP – Staff should ask to see the AMHP’s ID card and take the delegated instruction verbally, documenting this on their Clinical Record.
- WMAS staff should document a 24hour telephone number from the AMHP (may be a CRISIS, Bed Management or AMHP liaison number etc) so any cases of dispute upon arrival at the receiving destination can be clarified directly.

It is to be noted that this new process does **NOT REPLACE** the existing arrangements, but is implemented alongside – therefore, staff may on occasion still be presented with “physical section papers” as well as the new verbal delegated authority.

For any concerns please contact – [robert.cole@wmas.nhs.uk](mailto:robert.cole@wmas.nhs.uk) – Consultant Paramedic

Produced By: **Head of Clinical Engagement (Consultant Paramedic)**  
Authorised By: **Executive Director of Nursing & Clinical Commissioning**  
Review Date: **December 2021**

Appendix B



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Email and telephone contact list for mental health act applications and transfers to:

Harplands Hospital, Hilton Road, Harpfields, Stoke on Trent, Staffs. ST4 6TH

Ward	Group email address	Ward telephone number
Mental Health Act Office – must be copied into all emails.	<a href="mailto:mentalhealthlawteam@combined.nhs.uk">mentalhealthlawteam@combined.nhs.uk</a>	01782 441629 - Karen 01782 441636 - Rachel 01782 441643 – Deb
PICU	<a href="mailto:Picu.qualifiedstaff@combined.nhs.uk">Picu.qualifiedstaff@combined.nhs.uk</a>	01782 441764
ONE	<a href="mailto:wardonestaffnurses@combined.nhs.uk">wardonestaffnurses@combined.nhs.uk</a>	01782 441701
TWO	<a href="mailto:Wardtwo.staffnurses@combined.nhs.uk">Wardtwo.staffnurses@combined.nhs.uk</a>	01782 441702
THREE	<a href="mailto:Ward3nurses@combined.nhs.uk">Ward3nurses@combined.nhs.uk</a>	01782 441703
FOUR	<a href="mailto:Qualifiedward4@combined.nhs.uk">Qualifiedward4@combined.nhs.uk</a>	01782 441704
FIVE	<a href="mailto:neuroqualified@combined.nhs.uk">neuroqualified@combined.nhs.uk</a>	01782 441705
SIX	<a href="mailto:Qualifiednursingstaffward6@combined.nhs.uk">Qualifiednursingstaffward6@combined.nhs.uk</a>	01782 441706
SEVEN	<a href="mailto:Ward7qualified@combined.nhs.uk">Ward7qualified@combined.nhs.uk</a>	01782 441707
ASSESSMENT AND TREATMENT	<a href="mailto:LDassessment&amp;treatmentqualified@combined.nhs.uk">LDassessment&amp;treatmentqualified@combined.nhs.uk</a>	01782 427432
DARWIN CENTRE	<a href="mailto:darwinnursingteam@combined.nhs.uk">darwinnursingteam@combined.nhs.uk</a>	0300 123 1766 – Nursing Office 0300 790 0234 - Reception
SUMMERS VIEW	<a href="mailto:summersviewteam@combined.nhs.uk">summersviewteam@combined.nhs.uk</a>	01782 425754
HARPLANDS SITE MANAGER	<a href="mailto:harplandssitemanagers@combined.nhs.uk">harplandssitemanagers@combined.nhs.uk</a>	0300 123 1535