Policy:

NPCS 013 The Role of the Second Professional Mental Health Act 1983

Executive Director Lead	Executive Medical Director
Policy Owner	Head of Mental Health Legislation
Policy Author	Head of Mental Health Legislation Mental Health Act Office Manager

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Summary of policy

Guidance in respect of the role of the Second Professional in the renewal of detention under the Mental Health Act 1983 (as amended)

Target audience	Staff involved in the administration of the Mental Health Act and in providing care and treatment under the Mental Health Act 1983

Keywords	Second Professional; Mental Health Act

Storage & Version Control

Version 5 of this policy is stored and available through the SHSC intranet/internet.

This version of the policy supersedes the previous version (V4 March 2019). Any copies of the previous policy held separately should be destroyed and replaced with this version.

Version Control and Amendment Log

Version No.	Type of Change	Date	Description of change(s)
1	New draft policy created	07/2011	Previous guidance in operation updated to policy status.
1.1	Review/Ratification	08/2011	Amendments made during consultation, prior to ratification.
2.0	Review	01/2013	Full review following new NHSLA standards being published.
2.1	Review on expiry of policy	03/2013	Committee structure updated
3.0	Updated	03/2016	Changes to references to Revised Code of Practice
4.0	Scheduled Review	03/2019	No significant changes – job titles updated and flow-chart clarified
5.0	Scheduled Review	03/2022	• Executive Lead changed to Executive Medical Director on front and in duties section • Approval changed to PGG not EDG • Corrections of typing errors • Removal of paragraphs which were repeats • Additional reference to second professionals needing to comply with human rights legislation • References changed to Mental Health Legislation Operational Group from old governance structure of Mental Health Legislation Committee (old version) • Terminology changed to reflect new governance within the Trust eg. role of Head of Service • Definition of hospital managers added

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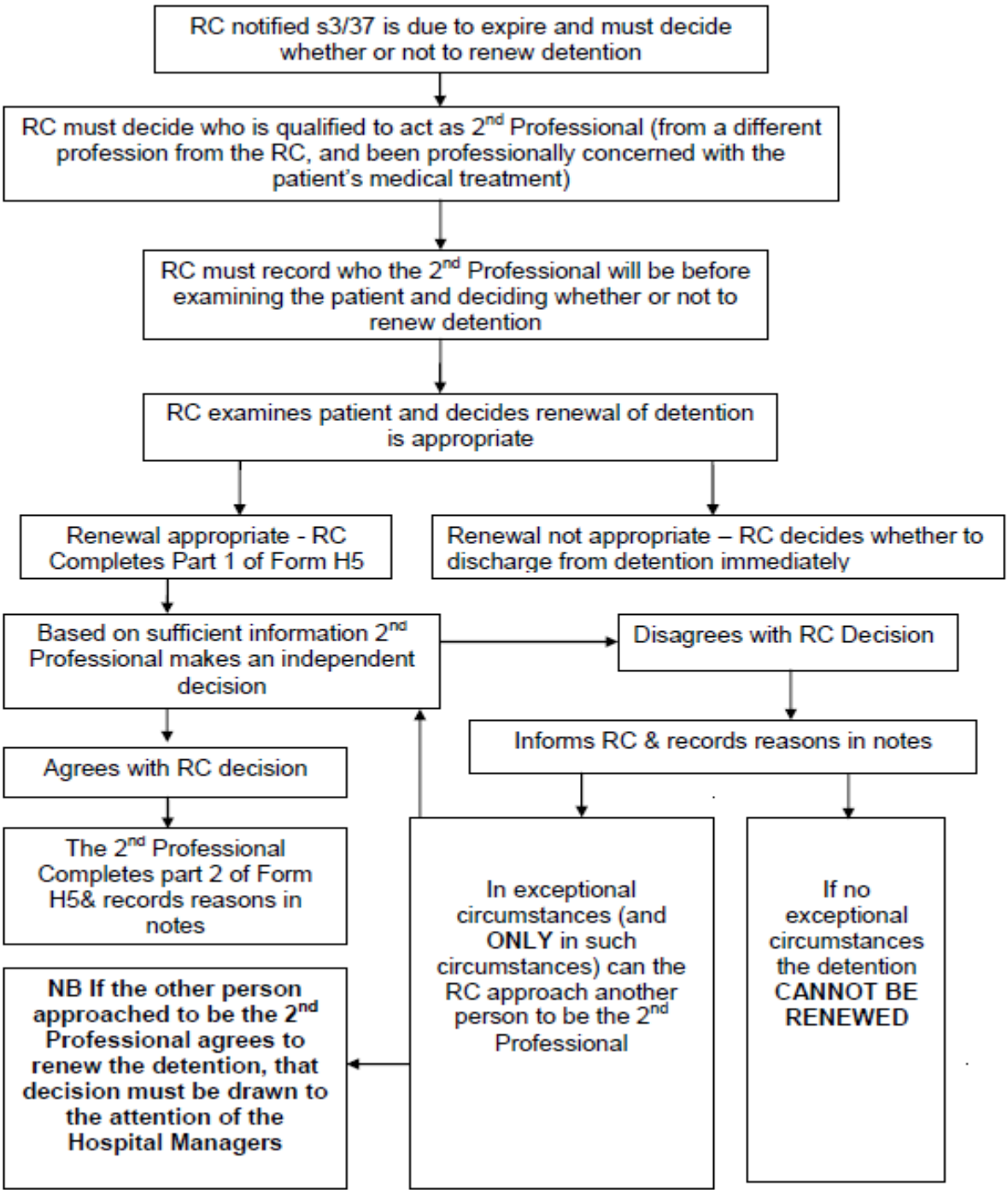
Flowchart


RC notified s3/37 is due to expire and must decide whether or not to renew detention
RC must decide who is qualified to act as 2nd Professional (from a different profession from the RC, and been professionally concerned with the patient's medical treatment)
RC must record who the 2nd Professional will be before examining the patient and deciding whether or not to renew detention
RC examines patient and decides renewal of detention is appropriate
Renewal appropriate - RC Completes Part 1 of Form H5
Renewal not appropriate – RC decides whether to discharge from detention immediately
Based on sufficient information 2nd Professional makes an independent decision
Disagrees with RC Decision
Informs RC & records reasons in notes
Agrees with RC decision
The 2nd Professional Completes part 2 of Form H5& records reasons in notes
In exceptional circumstances (and ONLY in such circumstances) can the RC approach another person to be the 2nd Professional
If no exceptional circumstances the detention CANNOT BE RENEWED
NB If the other person approached to be the 2nd Professional agrees to renew the detention, that decision must be drawn to the attention of the Hospital Managers

1 Introduction

The Mental Health Act 1983 (as amended) introduced the new role of the second professional in relation to the renewal of a patient's detention under section 3 or section 37.

2 Scope

This policy applies to all who are involved in the care and treatment of those detained under the Mental Health Act (as amended) (MHA). Its scope applies Trustwide.

3 Purpose

The purpose of this policy is to ensure the Trust is compliant with the MHA by ensuring that the role of second professional is clearly understood by staff and is undertaken by only those staff who are appropriately qualified to do so.

4 Definitions

Hospital Managers
For the purposes of this policy, Hospital Managers are Associate Mental Health Act Managers (AMHAMs). AMHAMs play a role in reviewing Mental Health Act restrictions which includes reviewing a patient's case when renewed.

Mental Health Act
References to the Mental Health Act are to the Mental Health Act 1983 as amended by the Mental Health Act 2007. The abbreviation 'MHA' is sometimes used, or simply referred to as 'the Act'.

Responsible Clinician (RC)
The Clinician with overall responsibility for the care and treatment of a patient detained under the Mental Health Act.

Second Professional
An individual nominated by the RC who is from a different profession from the RC and has been professionally concerned with the patient's treatment.

5 Detail of the policy

This policy is concerned with the process which needs to be followed when a Responsible Clinician is considering the renewal of an eligible person's detention. A person is eligible for these purposes if they have been admitted under s3, kept under guardianship (civil or criminal) or is subject to an unrestricted hospital order.

6 Duties

The Executive Medical Director has delegated responsibility for ensuring that clinical practice is carried out in accordance with Mental Health Act legislation.

Heads of Service are responsible for ensuring that practices within their service areas are carried out in accordance with MHA legislation.

Ward/Team Managers are responsible for ensuring that staff are aware of the policies that apply to their areas of practice and for monitoring such practices.

Responsible Clinicians are responsible for nominating second professionals who are appropriately qualified and ensuring their practice is in line with MHA legislation.

Second Professionals are responsible for ensuring that they satisfy themselves of their requirements under the MHA.

The Mental Health Act Administration Manager is responsible for monitoring MHA compliance.

All staff implementing the provisions of the Mental Health Act must be aware of their duties and responsibilities under the Act. This guidance helps to ensure staff are aware of their duties under this role.

7 Procedure

7.1 Mental Health Act

Where a Responsible Clinician, after considering all alternatives, is satisfied that the criteria for renewing a patient's detention are met, they must submit a report to the Hospital Managers.

In compliance with section 20(5) Mental Health Act 1983 (as amended), before submitting that report, the Responsible Clinician must first consult with one or more other people who have been professionally concerned with the patient's treatment.

The name & profession of the person/s consulted must be recorded on the statutory document (form H5).

The involvement of the second professional is intended to act as an additional safeguard and ensure that the renewal is formally considered by two suitably qualified and competent professionals who are familiar with the patient's case.

These two professionals, being from different disciplines, will bring a different perspective and each must be able to reach their own decisions independently. When considering renewing a patient's detention, the Responsible Clinician must obtain the agreement of the second professional that after having considered all alternatives the criteria for continuing detention are met.

This agreement must be recorded by the second professional on the same statutory document (form H5).

7.2 Second Professional

The Second Professional:

a) Must not belong to the same profession as the Responsible Clinician.

b) Could be a nurse, care co-ordinator, social worker or any other member of the multidisciplinary team.

c) Must be
- Appropriately qualified
- Have at least 18 months post qualifying experience

- Have sufficient knowledge and expertise to decide whether the patient's detention is necessary and lawful.

d) Must be professionally concerned with the patient's treatment and have been actively involved in the planning, management or delivery of that treatment under the current period of detention

e) Should have had sufficient recent contact with the patent to be able to make an informed judgement about the patient's case

Given that the patient's human rights are infringed by using the Act's powers, the second professional must ensure they do not simply 'rubber stamp' the Responsible Clinician's intention to renew an order, but must make their own decision based on their professional judgement.

7.3 Decision of the Second Professional

Second professionals should satisfy themselves that they have sufficient information upon which to make the decision and the Responsible Clinician should ensure that the second professional is given enough notice to be able to interview or examine the patient if appropriate.

The Responsible Clinician should identify and record who the second professional will be before examining the patient and deciding whether to make a renewal report.

Unless there are exceptional circumstances, the decision of the identified second professional should be accepted, even if the Responsible Clinician does not agree with it, and documented in the patient's notes including the reasons for the disagreement. If, in exceptional circumstances, it is decided that the agreement of a different second professional should be sought, this should be fully documented and the decision should be drawn to the attention of the hospital managers if, as a result, a renewal report is made.

A decision by a second professional not to agree to the renewal does not bring the current period of detention to an end before it would otherwise have expired, however the Responsible Clinician should consider whether they should immediately discharge the patient from detention.

All discussions and decisions should be recorded in the patients care records.

8 Development, Consultation and Approval

This initial guidance was developed by the former Mental Health Legislation Committee (now Mental Health Legislation Operational Group) in line with the requirements of the Mental Health Act 1983 (as amended) and its Code of Practice (2015).

Members of the Mental Health Legislation Operational Group have been invited to provide feedback in relation to the renewal and updating of this policy.

9 Audit, Monitoring and Review

Audit & monitoring of this guidance will be through the Mental Health Legislation Operational Group.

Monitoring Compliance Template						
Minimum Requirement	Process for Monitoring	Responsible Individual/ group/committee	Frequency of Monitoring	Review of Results process (e.g. who does this?)	Responsible Individual/group/ committee for action plan development	Responsible Individual/group/ committee for action plan monitoring and implementation
A) Renewals undertaken before current section expires	Routine review and monitoring	Mental Health Act Office Manager	Ongoing	Mental Health Act Office Manager	Mental Health Act Office Manager; Head of Mental Health Legislation	Mental Health Legislation Operational Group
B) Renewal of detention process not undertaken in accordance with the MHA	Incident reporting	Mental Health Legislation Operational Group	Ongoing	Mental Health Legislation Operational Group.	Mental Health Legislation Operational Group.	Mental Health Legislation Operational Group

The policy review date is March 2025.

10 Implementation Plan

Action / Task	Responsible Person	Deadline	Progress update
Mental Health Legislation Operational Group to be notified so members can disseminate	Head of Mental Health Legislation		

11 Dissemination, Storage and Archiving (Control)

This guidance replaces the previous version (v4) on SHSC Intranet and Intranet. The previous policy will be removed from the Trust website by the Policy Governance Team/Communications team

Version	Date added to intranet	Date added to internet	Date of inclusion in Connect	Any other promotion/ dissemination (include dates)
1.0				
2.0				
3.2				
4.0				
5.0	April 2022	April 2022	April 2022	

12 Training and Other Resource Implications

No specific training is required in relation to this policy.

All relevant managers should ensure new staff (who may be asked to be the second professional) are made aware of this policy and where it can be accessed.

13 Links to Other Policies, Standards (Associated Documents)

Mental Health Act 1983 (as amended)
Mental Health Act Code of Practice (Department of Health, 2015)
Mental Health Act Reference Guide (Department of Health, 2015)
Human Rights Act 1998

14 Contact Details

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Appendix A

Equality Impact Assessment Process and Record for Written Policies

Stage 1 – **Relevance** - Is the policy potentially relevant to equality i.e. will this policy potentially impact on staff, patients or the public? This should be considered as part of the Case of Need for new policies.

NO – No further action is required – please sign and date the following statement. I confirm that this policy does not impact on staff, patients or the public.	***I confirm that this policy does not impact on staff, patients or the public.*** Name/Date:	**YES,** Go to **Stage 2**

Stage 2 Policy Screening and Drafting Policy - Public authorities are legally required to have 'due regard' to eliminating discrimination, advancing equal opportunity and fostering good relations in relation to people who share certain 'protected characteristics' and those that do not. The following table should be used to consider this and inform changes to the policy (indicate yes/no/ don't know and note reasons). Please see the SHSC Guidance and Flow Chart.

Stage 3 – **Policy Revision** - Make amendments to the policy or identify any remedial action required and record any action planned in the policy implementation plan section

SCREENING RECORD	Does any aspect of this policy or potentially discriminate against this group?	Can equality of opportunity for this group be improved through this policy or changes to this policy?	Can this policy be amended so that it works to enhance relations between people in this group and people not in this group?
Age	**No**	**No**	**No**
Disability	**No**	**No**	**No**
Gender Reassignment	**No**	**No**	**No**
Pregnancy and Maternity	**No**	**No**	**No**

Race	**No**	**No**	**No**
Religion or Belief	**No**	**No**	**No**
Sex	**No**	**No**	**No**
Sexual Orientation	**No**	**No**	**No**
Marriage or Civil Partnership	**No**		

No changes made.

Impact Assessment Completed by: Name /Date	Jamie S Middleton Mar 2022

Appendix B

Review/New Policy Checklist

This checklist to be used as part of the development or review of a policy and presented to the Policy Governance Group (PGG) with the revised policy.

		Tick to confirm
	Engagement	
1.	Is the Executive Lead sighted on the development/review of the policy?	✓
2.	Is the local Policy Champion member sighted on the development/review of the policy?	X
	Development and Consultation	
3.	If the policy is a new policy, has the development of the policy been approved through the Case for Need approval process?	N/A
4.	Is there evidence of consultation with all relevant services, partners and other relevant bodies?	✓
5.	Has the policy been discussed and agreed by the local governance groups?	✓
6.	Have any relevant recommendations from Internal Audit or other relevant bodies been taken into account in preparing the policy?	N/A
	Template Compliance	
7.	Has the version control/storage section been updated?	✓
8.	Is the policy title clear and unambiguous?	✓
9.	Is the policy in Arial font 12?	✓
10.	Have page numbers been inserted?	✓
11.	Has the policy been quality checked for spelling errors, links, accuracy?	✓
	Policy Content	
12.	Is the purpose of the policy clear?	✓
13.	Does the policy comply with requirements of the CQC or other relevant bodies? (where appropriate)	✓
14.	Does the policy reflect changes as a result of lessons identified from incidents, complaints, near misses, etc.?	N/A
15.	Where appropriate, does the policy contain a list of definitions of terms used?	✓
16.	Does the policy include any references to other associated policies and key documents?	✓
17.	Has the EIA Form been completed (Appendix 1)?	✓
	Dissemination, Implementation, Review and Audit Compliance	
18.	Does the dissemination plan identify how the policy will be implemented?	✓
19.	Does the dissemination plan include the necessary training/support to ensure compliance?	✓
20.	Is there a plan to i. review ii. audit compliance with the document?	✓
21.	Is the review date identified, and is it appropriate and justifiable?	✓