BIRMINGHAM & SOLIHULL

Joint Memorandum of Understanding

Standard Operating Procedure

S140 Mental Health Act 1983

AGREED July 2020

MOU NAME:
SECTION 140
BRIEF OUTLINE OF THIS POLICY:
To agree the roles and responsibilities of the BSMHFT, Birmingham City Council and West Midlands Police when requesting s140
of the Mental Health Act 1983 (as amended in 2007).
Version Number: 1.0
Approving Committee: JSOG
Policy Category: Mental Health Act & Mental Capacity Act
Name of Author Multi-Agency: Joint Working Protocol Group
Date Approved: July 2020
Date Issued: October 2020
Review Date: October 2023
Target Audience: All agencies, operational services, clinical and
managerial staff
Awareness and Distribution: recorded video distributed to partner agencies
Location: BSMHFT Intranet, BCC Intranet, FTB Intranet
Review date for review of escalation and changes of personnel: October 2023

Section 140 of the Mental Health Act 1983 (Amended 2007) Standard Operating Procedure

1. Purpose of the standard Operating Procedure

1.1 The primary purpose of this standard operating procedure is to meet the requirement for a joint local procedure for admission to hospital under Section 140 of the MHA 1983. LA's, NHS commissioners, police forces and ambulance services should have a clear joint policy for the safe and appropriate admission of people in their area. Those carrying out functions for these parties should understand these policies and their purposes.

2. What does current legislation, Mental Health Act Code of Practice, National Guidance and current NHS Trust policies say?

2.2 What is Section 140?

Section 140 MHA 1983

2.2.3 Notifications of hospitals having arrangements for reception of urgent cases

It shall be the duty of every CCG of every local health board to give notice to every local Social Services Authority for an area wholly or partly comprised with the area of the Clinical Commissioning Group specifying the hospital or hospitals administered by (or otherwise available) to the (Clinical commissioning group) or Local Health Board in which arrangements are from time to time in force. –

(a) For reception of patients in cases of special urgency
(b) For the provision of accommodation or facilities designed so as to be specifically suitable for patients who have not attained the age of 18 years.

2.2.4 Paragraph 14.77 of the Code of Practice States:
If the doctors reach the opinion that the patient needs to be admitted to hospital, it is their responsibility to take necessary steps to secure a hospital bed: it is not the responsibility of the applicant.

2.2.5 Paragraph 14.78 of the Code of Practice States:
Clinical Commissioning Groups are responsible for commissioning mental health services to meet the needs of their areas. Under section 140 of the Act, CCGs have a duty to notify local authorities in their areas of the arrangements which are in force for the reception of patients in cases of special urgency or the provision of appropriate accommodation or facilities specifically designed for patients under the age of 18. CCGs should provide a list of hospitals and their specialisms to local authorities which help inform AMHPs as to where these hospitals are. This should in turn help inform

AMHPs as to where beds are available in these circumstances if they are needed.

2.2.6 Jones 2019 states:
Although this section does not oblige the specified hospitals to admit patients in an emergency or to maintain the capacity to facilitate such admissions, a refusal to admit should only be made with good reason. If a hospital bed cannot be found for a patient who requires admission, it is the responsibility of the local health and social

services authorities to provide the patient with the appropriate treatment and / or care until a bed is found:

2.3 Criteria for Special Urgency

- Patient meeting the criteria for "special urgency " under Section 140 patients would fall within Category 1 Patients (Emergency Admission) (admission within few hours /8hrs) as Identified in the BSMHFT capacity management policy (bed management policy).
- Special urgency will be defined as those in exceptional clinical need identified based on a current medical examination by a Section 12 approved doctor /other Doctor in consultation and agreement of a Consultant Psychiatrist (applicable to both detained or informal patients) due to their severe mental disorder. The AMHP will be consulted in cases of Mental health act assessments to determine urgency
- Guide to Qualification as a Category 1 Case/Section 140 case (this is not an exhaustive list but sets the threshold to be reached for Section 140/ admission status of special urgency).
- An episode of life-threatening self-harm together with physical illness, living alone, with lack of social supports and clearly identified severe mental illness signs and symptoms.
- Florid psychosis in a community setting, living alone with lack of engagement with home treatment team, non-concordance with treatment including medication combined with self-neglect and/or active agitation/thoughts of self-harm/harm to others/fear.
- Patient with features of mental illness with severe self-neglect showing features of dehydration or sustained food refusal over days.
- Conditionally discharged restricted patients, i.e. patients with a proven record of causing serious risk of significant harm to others when mentally unwell, currently non-concordant with medication, disengaged from services and showing features of relapse of mental illness.
- Patient with such severe psychosis, mania or depression that they lack capacity to carry out activities of daily living including self-care, nonconcordant with treatment in a community setting and disengaged from services.

2.4 Cases that would not qualify automatically for Section 140/Category one

- Those cases who do not meet the clinical need threshold for Section 140 would not qualify for a Section 140 status based on being at a place of safety, A&E or in police custody, or based on recommendations for detention under the Mental Health Act alone.

2.4.1 Paragraph 19.98 of the code of practice (Children or Young People) states

"*In a small number of cases the child or young persons need to be accommodated in a safe environment could, in the short term, take*

precedence over the suitability of that environment for their age (referred to as an "emergency situation"). Such situations will arise where the child or young person needs to be admitted urgently to hospital and accordingly waiting for a bed to become available on a CAMHS unit is not considered to be an acceptable option. An "emergency situation" should be a rare and unusual case. It is not unusual for children or young people to require unplanned

admissions and accordingly local policies should be in place to ensure that such admissions are to age appropriate environments."

2.4.2 Paragraph 19.101 of the code of practice (Children or Young People) states *"Where, whether owing to an emergency or because the admission is an "atypical" case, it is considered appropriate for the child or young person to be admitted to an adult ward, it will be necessary to ensure that appropriate steps have been taken to safeguard the young person. Discrete accommodation in an adult ward, with facilities, security and staffing appropriate to the needs of that young person, might provide the most satisfactory solution: for example, young female patients should be placed in single sex accommodation. Wherever possible all those involved in the care and treatment of children and young people should be CAMHS specialists. Anyone who looks after them must always have enhanced DBS, including a barred list check, and that clearance must be kept up to date".*

2.5 Process for Hospital Admissions

2.5.1 Section 6 Jones 2019 (p77)

"*Authority for the patient's detention in the hospital starts on his arrival at the suite or holding area. The Date and time of the arrival should be recorded on form H3.*

It is unlawful to convey a patient to hospital on the authority of an application which does not state the name of the potential admitting hospital. It is also unlawful to take the patient to a hospital that is not the named hospital on the application even though the hospital named on the application and the hospital to which the patient is being taken come under the control of the same hospital managers. Although the named hospital is not under a legal obligation to admit the patient, it should only refuse to admit the patient on reasonable grounds e.g. a suitable bed is not available or there are good clinical reasons to refuse admission. As the duly completed application does not provide authority to convey the patient to another hospital, it is essential for a recommending doctor to have confirmed to the applicant that a bed is available for the patient in the named hospital".

2.5.2 14.89 of the Code of Practice

a. "*Applications for detention must be addressed to the managers of the hospital where the patient is to be detained. An application must state a specific hospital. An application cannot, for example, be made to a multisite provider without specifying which of the providers sites the patient is to be admitted to. Providers should identify a bed manager or other single point of contact who will be responsible for finding a suitable bed as soon as possible and telling the applicant the name of the site at which it is situated. Effective systems of bed management including discharge planning, possible alternative to admission and demand planning should be in place. The bed manager should work closely with commissioners to proactively identify local need, and with assessing*

doctors and AMHPs to secure a bed. AMHPs should be adequately supported by their local
authority in establishing working partnerships with other local agencies”

The Independent review of the MHA in its final report on Dec 6th 2018[1] highlights the current situation and makes recommendations:

> "*Availability of beds*
>
> *Although CCGs and Local Health Boards in Wales are required under section 140 MHA to make arrangements to provide beds for urgent situations, the concept of 'urgent' is not defined in the Act and only a small number of examples exist where local authorities and CCGs have effective arrangements under section 140.*

The review taking this forward further recommended introducing a new time limit by which a bed must be found following an order for detention; Section 140 of the Act makes it a responsibility of CCGs to ensure that arrangements are in place for the reception of patients in cases of special urgency. however the operation of this responsibility needs to be discharged more consistently and more effectively.

Birmingham and Solihull CCG Position

In its recent submission (January 2020)[2] in response to a prevention of future deaths report the Birmingham and Solihull CCG clarified its position on Section 140 of the Mental health Act.

The CCG has entered into local arrangements with both BSMHFT and BWC (FTB) to delegate the management of access to emergency beds, in accordance with the 2015 Mental Health Act Code of Practice.

In practice this means that both Trusts are able to access emergency beds through local arrangements. ***Both Trusts have autonomy and authority to admit patients to emergency beds available within west midlands or nationally including an independent sector placement, funded by the CCG.***

Annex 1.

Process for Admission under section 140

Doctors/AMHPS carrying out Mental health act assessments or seeking admission to hospital of patients when they are satisfied that section 140 is engaged i.e. the patient has special urgency should:

1. Complete standard template in the clinical records (RIO)/or equivalent paper / word document template and email to bed management team setting out that section 140 is engaged and the detailed reasoning behind reaching such a conclusion and the type of bed required.
2. Completion of RIO form will result in automatic notification being sent to the bed management team/the bed manager regarding the engagement of Section 140

1 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/778897/ Modernising_the_Mental_Health_Act_-_increasing_choice reducing_compulsion.pdf

2 Birmingham Solihull CCG response to Birmingham coroner Prevention of Future death report in the case of Abbotts

- It will be the responsibility of the Notified bed manager to arrange for a suitable bed.
- It will be the responsibility of the notified bed manager to notify the AMHP that s140 has been engaged.

Escalation Process of applying for Section 140 bed:

Should it become clear that this is not be possible to identify a suitable within 4 hours; the notified Bed manager will notify the Director on call (out of hours) or AD of urgent care (in hours).

- It will be the responsibility of the notified director (on call manager and on call executive for BWC) to make all reasonable efforts to ensure a bed is available including securing any out of area bed as may be needed.
- It will be the responsibility of the Notifying doctor to provide all necessary and available clinical and risk information.
- Should there be a dispute regarding whether section 140 is engaged the director on call (on call manager and on call executive for BWC can seek a review of the case via the on-call consultant Psychiatrist (out of hours) or any other suitable consultant Psychiatrist in hours.
- The reviewing Consultant Psychiatrist opinion would determine if Section 140 is engaged.

Action to be taken for finding a section 140 bed will be in line with a category one case under the capacity management policy currently A category Section 140 case for bed allocation would:

1. Qualify for immediate allocation of a bed within BSMHFT/FTB bed pool if available.
2. If there is no bed available within BSMHFT/FTB then there would be an automatic and immediate escalation to a bed within the MERIT partnership/wider west midlands beds .
3. Should there be no bed available within the MERIT partnership/wider west midlands a bed anywhere externally within the country would be sought immediately and approval provided from Associate Director/Head of Urgent Care (on call manager and on call executive for BWC) for funding.

4. *Associate Director for urgent care/on call Director (on call manager and on call executive for BWC) will make all reasonable efforts including locating an out of area bed nationally to achieve an admission by 8 hours.*

5. *Should there be a dispute regarding the criteria for Section 140 i.e. special urgency being met, an independent opinion from a Consultant Psychiatrist will be sought by the Associate Director /Director on call (on call manager and on call executive for BWC)*

6. *Efforts to support the patient in the current location and efforts to find a bed will continue until admission.*

7. *For Under 18yr olds there would be escalation to NHSE and For adults to the CCG as Necessary by the On call executive/on call Director/ AD for urgent care.*

APPENDIX 1

BIRMINGHAM CITY COUNCIL ESCALATION POLICY

STAGE 1 ESCALATION:

FOR DAY TO DAY ISSUES CONTACT THE RELEVENT CONSTITUNECY TEAM MANAGER VIA CONTACT CENTRE: XXXXXX

LOCALITY	CONSTITUENCY TEAM	TEAM MANAGER	HEAD OF SERVICE
NORTH	SUTTON	XXXXXX	XXXXXX
	ERDINGTON	XXXXXX	XXXXXX
		XXXXXX	XXXXXX
EAST	HODGE HILL	XXXXXX	XXXXXX
	YARDLEY	XXXXXX	XXXXXX
		XXXXXX	XXXXXX
SOUTH	EDGBASTON	XXXXXX	XXXXXX
	NORTHFIELD	XXXXXX	XXXXXX
		XXXXXX	XXXXXX
WEST	PERRY BARR	XXXXXX	XXXXXX
	LADYWOOD	XXXXXX	XXXXXX
		XXXXXX	XXXXXX
CENTRAL	SELLY OAK	XXXXXX	XXXXXX
	HALL GREEN	XXXXXX	XXXXXX

FOR AMHP ISSUES DAY SERVICES
AMHP XXXXXX
XXXXXX
FOR AMHP ISSUES OUT OF HOURS
TEAM MANAGER XXXXXX
XXXXXX
FOR SPECIALIST TEAMS
TEAM MANAGER SAFEGUARDING – XXXXXX
TEAM MANAGER PRISONS -XXXXXX
TEAM MANGER JOINT COMMISSIONING -XXXXXX

STAGE 2 ESCALATION:

STRATEGIC ISSUES SENIOR MANAGEMENT RESPONSIBILITY
HEAD OF SERVICE FOR MENTAL HEALTH – XXXXXX

HEAD OF SERVICE SAFEGUARDING – XXXXXX

STAGE 3 ESCALATION:

SERIOUS INCIDENT REPORTING
ASSISTANT DIRECTOR – XXXXXX
ASSISTANT DIRECTOR XXXXXX

APPENDIX 2

Escalation Process BSMHFT

XXXXXX **Associate Director for Acute and Urgent Care** XXXXXX
XXXXXX **CD for Urgent Care** XXXXXX
XXXXXX **CD for Acute Care** XXXXXX

South
Clinical Nurse Manager XXXXXX **Wards –** Japonica, Tazetta, Melissa, Magnolia, Caffra
South HTT

North
Clinical Nurse Manager – XXXXXX
Wards – George, Eden Male, Eden PICU, Larimar, Endeavour House Erdington , Sutton HTT & Solihull HTT

Central
Clinical Nurse Manager – XXXXXX
Wards – saffron, lavender, Mary Seacole 1&2, Newbridge House
Ladywood & Handsworth HTT

XXXXXX **service lead** All liaison psychiatry teams British Transport Police
XXXXXX **service lead** PDU, Bed management, POS, Street Triage

APPENDIX F

FTB Contact List 2020 Escalation process:

Team Manager for queries / information

Lead Nurses or Head of Nursing / on call Manager (out of hours) – first escalation through XXXXXX **Associate Director of Nursing / Director of operations / on call manager (out of hours) – second escalation if required through** XXXXXX **Executive escalation** XXXXXX **or on call executive** XXXXXX

Senior Management Team:

Hub Details	**Contact Details**	**Clinical Lead/Job Title**	**Email Address**
Staff Member	**Job Title**	**Contact Number**	**Email Address**
XXXXXX	Director of Mental Health Services	XXXXX	XXXXXX
XXXXXX	Divisional Director of Operations	XXXXXX	XXXXXX
XXXXXX	Deputy Chief Nurse	XXXXXX	XXXXXX

Community Hubs

Blakesley Centre, 102 Blakesley Road Yardley Birmingham B25 8RN	Hub No: XXXXXX	XXXXXX Senior Clinical Nurse Manager	XXXXXX
Finch Road Primary Care Centre, 2 Finch Road, Lozells, Birmingham B19 1HS	Hub: XXXXXX	XXXXXX Clinical Team Manager	XXXXXX
Oaklands Centre Raddlebarn Road Selly Oak Birmingham B29 6JB	Hub: XXXXXX	XXXXXX and XXXXXX – Clinical Team Managers	XXXXXX
Birmingham Road Hub 21-23 Birmingham Road Sutton Coldfield Birmingham B72 1PW	Hub: XXXXXX	XXXXXX – Clinical Team Manager	XXXXXX

Urgent Care and Crisis Home Treatment Teams – CAMHS and Adults:

Address Details	Contact Details	Clinical Leads/ Clinical Lead/Job Title	Email Addresses
Parkview Clinic 60 Queensbridge Road Moseley Birmingham B13 8QE	XXXXXX	XXXXXX	XXXXXX
		XXXXXX	XXXXXX

Specialist Pathways:
Learning Disabilities, Youth Offending, ADHD Lead:

Contact Details	Contact Number	Email Address
XXXXXX – Lead Nurse for Specialist Services - Works Citywide	XXXXXX	XXXXXX

Early Intervention:

Contact Details	Contact Number	Email Address
Tim Newbold – Lead Nurse for Early Intervention Pathway	XXXXXX	XXXXXX

Eating Disorders (SEDS Team):

Contact Details	Contact Number	Email Address
Dan O'Mara – Clinical Team Manager – SEDS Team	XXXXXX	XXXXXX