

Policy For Managing Ordinary Residence

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Partners in Care

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Document Information

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| <p>The Trust is committed to preventing discrimination, valuing diversity and achieving equality of opportunity. No person (staff, patient or public) will receive less favourable treatment on the grounds of the nine protected characteristics (as governed by the Equality Act 2010): Sexual Orientation; Gender; Age; Gender Reassignment; Pregnancy and Maternity; Disability; Religion or Belief; Race; Marriage and Civil Partnership. In addition to these nine, the Trust will not discriminate on the grounds of domestic circumstances, social-economic status, political affiliation or trade union membership.</p> <p>The Trust is committed to ensuring all services, policies, projects and strategies undergo equality analysis. For more information about equality analysis and Equality Impact Assessments please refer to the Equality and Diversity Policy.</p> | | | |

Amendment History

| Issue | Status | Date | Reason for Change | Authorised |
|-------|----------|------------------|--|--|
| 1 | Ratified | 15 January 2016 | New | |
| 1 | Ratified | 07 December 2017 | Date Change | Deputy Director of Adult Social Services |
| 1 | | 19 February 2018 | Review date extended from 2 years to 3 years | |
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1 Introduction

1.1 The Care Act 2014 and Care and Support Statutory Support Guidance published in October 2014 provides guidance on the identification of the ordinary residence of people in need of community care services in England.

As a result of the introduction of the Care Act the Ordinary Residence Disputes (National Assistance Act 1948) Directions 2010 have been repealed. However Department of Health Guidance issued in October 2013 entitled: "Ordinary residence: Guidance on the identification of the ordinary residence of people in need of community care services, England has not been formally withdrawn but should be treated with caution as it refers to previous legislation.

Another major change is to s.117 of the Mental Health Act 1983 is in respect of ordinary residence. The new provisions amend the position so that responsibility is given to the local authority in which the person was "ordinarily resident" immediately prior to being detained.

1.2 The guidance does not provide a clear definition of 'Ordinary Residence' but it does provide advice on how Local Authorities (LA's) should identify 'The ordinary residency of people'. It includes various case examples on ordinary residency and provides guidance on who should fund an individual's care when LA's are in dispute.

2 Statement/Objective

2.1 This policy describes the process which should be followed for both incoming and outgoing ordinary residency cases by all staff working for The Trust and outlines:

3 Roles & Responsibilities

3.1 The Trust will determine whether an individual with eligible needs is ordinarily resident in its area following a needs or carer's assessment.

3.2 The test for Ordinary Residence, which determines which local authority is responsible for meeting needs, applies differently in relation to adults with needs for care and support and carers.

3.3 For adults with care and support needs, the local authority in which the adult is 'ordinarily resident' will be responsible for meeting their eligible needs.

3.4 For carers, the responsible local authority will be the one where the adult for whom they care is ordinarily resident. Where a carer cares for more than one person there may be different local authorities responsible. In which case the local authorities should cooperate and share the provision of support to the carer.

3.5 The Care Act contains powers for joint assessments and includes the duty to cooperate

3.6 Where Ordinary Residence is not clear, the Trust will meet the needs first and then resolve the question of residence; particularly when there is a dispute between two authorities

4 Determination of Ordinary Residence

4.1 There is no definition of Ordinary Residence in the Care Act. The intention is that it should be given its ordinary and natural meaning. Where there is uncertainty each case should be considered on its own merits taking into account factors of intent and degree such as time intention and continuity.

4.2 The Trust will in particular apply the principle that Ordinary Residence is the place a person has voluntarily adopted for a settled purpose, whether for a short or long duration. Ordinary Residence can be acquired as soon as the person moves to an area, if their move is voluntary and for settled purposes, irrespective of whether they own, or have an interest in a property in another local authority area.

4.3 The Courts have considered the meaning of 'Ordinary Residence' and the leading case is that of *Shah v London Borough of Barnet* (1983). In this case, Lord Scarman stated that:

"unless ... it can be shown that the statutory framework or the legal context in which the words are used requires a different meaning I unhesitatingly subscribe to the view that 'ordinarily resident' refers to a man's abode in a particular place or country which he has adopted voluntarily and for settled purposes as part of the regular order of his life for the time being, whether of short or long duration"

When a person has the capacity to make a decision about where he lives this case will be considered.

4.4 When a person lacks capacity to make a decision about accommodation they may not be able to voluntarily adopt a particular place.

4.5 Where a question exists in relation to capacity to make a decision reference will be made to the Mental Capacity Act 2005. Adults will be assumed to have capacity to make decisions unless it is established otherwise

4.6 If the service user is a child and they lack capacity to make a decision, the most likely scenario is the place of ordinary residence is fixed at the date when the child goes into care and does not change when the child becomes an adult, even if the child lives outside the council's area on a permanent basis and has no continuing connection anyone in the area of the placing council. Although it is likely that this is the case, it is not always. The facts of each individual case will need to be considered carefully and legal advice sought when required. (Supreme Court 8 June 2015)

- 4.7 It is not necessary for a person to understand local authority funding arrangements to be able to decide where they want to live.
- 4.8 Where a person has lost mental capacity the approach known as 'Vale 2' is appropriate to determine Ordinary Residence. This involves considering a person's Ordinary Residence as if they had mental capacity. All the facts of the person's case will be considered, including physical presence in a particular place and the nature and purpose of that presence, but without requiring the person to have voluntarily adopted the place of residence.

5 People with no Settled Residence

- 5.1 It is expected to be rare that a person is considered to have no settled residence. However, Sections 18 and 20 of the Care Act make it clear that the Trust has a duty to meet the eligible needs of people if they are present in its area but of no settled residence and that such people should be treated the same as those who are ordinarily resident.
- 5.2 A British citizen returning to England after a period of residing abroad (who had given up their previous home in this country) is entitled to an assessment as soon as they return if they appear to have needs for care and support. Ordinary Residence can be acquired as soon as a person moves to an area, if their move is voluntary and for settled purposes. However, if a returning citizen presents to the Trust on their return to England but has no particular intention to settle in the area, the Trust may decide they may be found to be of 'of no settled residence' and/or in 'urgent need' (see Annex H1). It is important that each case is considered on its own merit.

6 Ordinary Residence When Arranging Accommodation In Another Area

- 6.1 Where it is considered appropriate for the person's care and support needs to be met by the provision of accommodation in the area of another local authority, as well as involvement in the planning, a person has a right to make a choice about their preferred accommodation. In such cases consideration will be given to the need for the person to have the support of an advocate, either under the Care Act or under the Mental Capacity Act.
- 6.2 Section 39 of the Care Act, and the Regulations made under it, create the principle that the person placed 'out of area' is deemed to continue to be Ordinarily Resident in the area of the first or 'placing' authority, and does not acquire an Ordinary Residence in the 'host' or second authority.
- 6.3 The local authority which arranges the accommodation, therefore, retains responsibility for meeting the person's needs. This means that the adult is treated as remaining ordinarily resident in the area where they were resident before the placement began. Responsibility for meeting the person's needs does not transfer to the authority in whose area the accommodation is physically located.

6.4 This provision arises for accommodation arranged in premises which are one of three types of accommodation:

(i) nursing homes/care homes – accommodation which includes either nursing care or personal care;

(ii) supported living/extra care housing; this is either;

specialist or adapted accommodation: this means accommodation which includes features that have been built in, or changed, in order to meet the needs of adults with care and support needs. This may include safety systems and features which enable accessibility and navigation around the accommodation and minimise the risk of harm, as appropriate to the individual; or

accommodation which is intended for occupation by adults with care and support needs, in which personal care is also available, usually from a different provider.

(iii) shared lives schemes - accommodation which is provided together with care and support for an adult by a shared lives carer, approved by the scheme, in the shared lives carer's home under the terms of an agreement between the adult, the scheme, the shared lives carer and any local authority responsible for making the arrangement. The shared lives carer will normally be providing personal care but they will not need to provide it in every case.

6.5 In circumstances where the person moves to accommodation of their own volition, without the local authority making the arrangements, their Ordinary Residence would be where the new accommodation is situated.

6.6 Where the Trust is deemed to have responsibility for the provision of accommodation although a person is placed in one of these types of accommodation out of area, the responsibility will remain with the Trust should the person's needs change and they need to move accommodation as long as the needs have been assessed and it is judged that they 'are only able to be met' through the specified type of accommodation.

6.7 Should the needs of a person placed in another authority change so that they no longer need the specified accommodation and the person chooses to settle in their own accommodation in a different authority then it is likely that their Ordinary Residence will change and the Trust will no longer retain responsibility.

6.8 The Ordinary Residence deeming provision also applies where the care plan identifies that the person's needs can only be met by the person living in one of the specified accommodations, but the person chooses to take a direct payment to arrange the accommodation in another area (the Trust is still meeting their needs). However, it would not apply should the person choose accommodation not specified in the regulations or that was not in the care plan.

6.9 If the Trust arranges specified accommodation or is aware that a person with a direct payment has done so, we will inform the host authority. We will ensure that satisfactory arrangements are made before the accommodation begins for any necessary support services which are provided locally, such as day care, and that clear agreements are in place for funding all aspects of the person's care and support.

7 People Who are Accommodated Under the 12 Week Property Disregard and Deferred Payment Agreements

7.1 It is the local authority in which the person is ordinarily resident that has responsibility for offering and making arrangements for a deferred payment agreement. That local authority then remains responsible for the deferred payment agreement until the agreement is concluded.

7.2 Where a person is initially accommodated under the 12-week property disregard, information about deferred payments should be given and arrangements made during this 12-week period. If a person chooses to enter the area of another local authority but accepts the offer and enters a deferred payment agreement then the Trust will remain responsible for funding the care, minus contributions.

7.3 At the end of 12 weeks, the value of the person's home is taken into account (unless it is subject of an alternative disregard). If this results in the person becoming liable to pay for all of the costs of their care and they choose to enter into a private contract on a permanent basis, rather than accepting a deferred payment agreement, the person would be likely to acquire an Ordinary Residence in the new area, in line with the settled purpose test in 'Shah'.

7.4 If subsequently their needs changed and they required different care and support they should approach the local authority where their care home is situated.

8 People Who Are Arranging and Paying For Their Own Care

8.1 A person who has sufficient financial means to pay for their own care, but who has eligible needs, may ask the Trust to meet their needs and the Trust is obliged to do so.

8.2 Where an adult with enough means to pay for their own care and support makes such a request, the Trust will treat the person in the same manner as it would anyone else whose needs it is meeting. The adult would still pay for the care and support in full, and we will have a power to charge a fee to cover the additional costs of arranging or brokering that care and support.

8.3 A person with sufficient means to pay for their care may not be able to enter into a private agreement with their care home because they do not have the mental capacity to do so and have no attorney or deputy to act on their behalf, or they may have capacity to decide about entering a home but not to manage the arrangements. In such cases, the Trust is responsible for making arrangements for the provision of their accommodation, with reimbursement from the person as necessary. The person would remain ordinarily resident in Torbay even where they enter accommodation in another local authority area.

9 NHS Accommodation

9.1 A person for whom NHS accommodation is provided is to be treated as being ordinarily resident in the local authority where they were ordinarily resident before the NHS accommodation was provided. This applies regardless of length of stay. Responsibility for the person's care and support does not transfer to the area of the hospital.

9.2 Where a person has been provided with NHS accommodation as part of a package of NHS continuing health care, then prior Ordinary Residence is retained, based on the local authority in which the person had been previously ordinarily resident. Where a person is placed in a care home (or other accommodation funded by the NHS) in another local authority area for the purpose of receiving NHS continuing health care, they continue to be ordinarily resident in the local authority area in which they were ordinarily resident before entering the NHS accommodation.

9.3 Where a NHS Clinical Commissioning Group (CCG) places a person in such accommodation, it should inform the person's local authority of Ordinary Residence and, if the person is placed 'out of area', it is also good practice for the CCG to inform the local authority in which the care home is located.

9.4 Where a person ceases to be eligible for NHS CHC, but still needs to remain in their care home, or to be provided with accommodation elsewhere, the local authority in whose area the person was ordinarily resident immediately before being provided with NHS accommodation would be the authority responsible for arranging care and support to meet the person's eligible needs, and for funding the person's accommodation, subject to any financial assessment.

9.5 Should a person Ordinarily Resident in England be admitted to NHS accommodation elsewhere in Scotland, Wales or Northern Ireland their Ordinary Residence will remain in England.

10 Mental Health Aftercare

The duty on local authorities to commission or provide mental health after-care under section 117 of the Mental Health Act 1983, rests with the local authority for the area in which the person concerned was ordinarily resident immediately before they were detained under the 1983 Act, even if the person becomes ordinarily resident in another area after leaving hospital

- 10.1 As amended by the Care Act 2014, section 117 provides that, if a person is ordinarily resident in local authority area (A) immediately before detention under the 1983 Act, and moves on discharge to local authority area (B) and moves again to local authority area (C), local authority (A) will remain responsible for providing or commissioning their after-care. If the patient is subsequently detained in hospital for treatment again, the local authority in whose area the person was ordinarily resident immediately before their subsequent admission (local authority (B) or (C)) will be responsible for their after-care when they are discharged from hospital.
- 10.2 Only if a person's Ordinary Residence before being detained cannot be established will the responsible local authority be the one for the area to which the patient is sent on discharge. However, the Trust will only determine that a person is not resident anywhere as a last resort.
- 10.3 If there is a dispute between local authorities in England about where the person was Ordinarily Resident immediately before being detained, this will be determined by the process set out in section 40 of the Care Act 2014. Disputes between a local authority in England and a local authority in Wales will be determined by the Secretary of State for Health or the Welsh Ministers.

11 Other Common Situations

- 11.1 The Courts have held that temporary or accidental absences, including for example holidays or hospital visits in another area, should not break the continuity of Ordinary Residence, and the Trust will take this into account.
- 11.2 When a person is in urgent need, the Trust has powers under the Care Act to meet the needs of people who are known to be Ordinarily Resident in another area, at their discretion and subject to their informing the authority where the person is ordinarily resident.
- 11.3 In circumstances where a person who is ordinarily resident in one local authority area becomes in urgent need in Trust, the person's local authority of Ordinary Residence would have a duty to meet the person's eligible needs. However, since it is unlikely to be practicable for that authority to meet urgent needs, Torbay as the local authority where the person is physically present at the time should exercise the power to meet the urgent needs and provide the necessary accommodation, even if only on a temporary basis.
- 11.4 Although we would not be required to seek the agreement of the local authority where a person is ordinarily resident to meet the needs, we will inform the local authority where the person is ordinarily resident that we are doing so.
- 11.5 We may then come to an agreement with the local authority concerned on sharing or transferring the costs involved in meeting urgent needs.

12 People with more than one home

- 12.1 For the purposes of the Care Act 2014 it is not possible for a person to have more than one Ordinary Residence.
- 12.2 If a person appears genuinely to divide their time equally between two homes, it is necessary to establish (from all of the circumstances) to which of the two homes the person has the stronger link. Where this is the case, it would be the responsibility of the local authority in whose area the person is ordinarily resident, to provide or arrange care and support to meet the needs during the time the person is temporarily away at their second home
- 12.3 Further scenarios which may occur are set out in Annex H of the Care Act statutory guidance, and may be used by to support cases where there may be uncertainty as to an individual's Ordinary Residence.

13 People Who Arrange and Fund Their Own Care

- 13.1 People who self-fund and arrange their own care and choose to move to another authority area, and then find that their funds have depleted, can apply to the local authority area that they have moved to in order to have their needs assessed. If it is decided that they have eligible needs for care and support, the person's Ordinary Residence will be in the place where they moved to and not the first authority.

14 Resolving Ordinary Residence and Continuity of Care Disputes

- 14.1 The Care and Support (Disputes Between Local Authorities) Regulations 2014 (the Regulations), set out the procedures local authorities must follow when disputes arise regarding a person's Ordinary Residence. This must be done if a dispute remains unresolved before 4 months after the date of dispute.
- 14.2 It is critical that the person does not go without the care they need, should local authorities be in dispute. The local authority that is meeting the needs of the adult or the carer on the date that the dispute arises must continue to do so until the dispute is resolved. If no local authority is currently meeting the person's needs, then the local authority where the person is living or is physically present must accept responsibility until the dispute is resolved. The local authority which has accepted provisional responsibility is referred to as the 'the lead authority'.
- 14.3 The lead authority must identify all the authorities involved in the dispute and coordinate an ongoing dialogue between all parties involved. The parties involved must provide the lead authority with contact details of a named person in relation to the dispute.

- 14.4 The lead authority must also keep the person, or their carer if appropriate, fully informed of the dispute in question and of progress regarding any resolution.
- 12.5 If, having taken appropriate legal advice and considered the position, and followed the procedure set out in the disputes regulations, the authorities are still unable to resolve a particular dispute, they must apply for a determination to the Secretary of State or appointed person. Applications for determinations must be submitted by the lead authority before or by the end of a period of four months from the date when the dispute arose.

15 Armed Forces Veterans and the Families of Armed Forces Personnel

- 15.1 The Ordinary Residence provisions apply to armed forces veterans and the families of armed forces personnel in active service in the same way as they apply to other people.

16 Young people in Transition from Children's Services to Adult Care and Support

- 16.1 When a young person reaches 18 and has eligible needs for care and support under the Care Act 2014, their Ordinary Residence should be assessed to determine which local authority is responsible for ensuring these needs are met.
- 16.2 Neither the Children Act 1989 nor the Care Act makes provision for how to determine Ordinary Residence when a young person moves from being eligible under the Children Act to being eligible under the Care Act. Therefore, when making decisions about the Ordinary Residence of young people in transition to adult care and support, the local authority should have regard to both Acts. There is no set procedure for determining Ordinary Residence in this situation: every case must be decided on an individual basis, taking into account the circumstances of the young person and all the facts of their case.
- 16.3 Since the individual circumstances of young persons in transition are varied consideration must be given to the detail in Annex H8 of the Care and Support Statutory Guidance.
- 16.4 If the service user is a child and they lack capacity to make a decision the place of ordinary residence is fixed at the date when the child goes into care and does not change when the child becomes an adult, even if the child lives outside the council's area on a permanent basis and has no continuing connection anyone in the area of the placing council. (Supreme Court 8 June 2015)

17 The Mental Capacity Act 2005 Deprivation of Liberty Standards

- 17.1 Where a person needs to be deprived of liberty in a care home in England or Wales, the 2005 Act provides that the supervisory body is always the local authority in which the person is Ordinarily Resident.

- 17.2 The 'deeming' provisions in the Care Act apply for the purposes of determining where a person is Ordinarily Resident so that the local authority that is the supervisory body can be identified. A person remains Ordinarily Resident in the area of the local authority (A) in which the person is ordinarily resident before that local authority (A) places the person in the area of authority (B) in an arrangement that amounts to a deprivation of liberty. Therefore the placing local authority remains the supervisory body.
- 17.3 If a person needs to be deprived of liberty in a care home upon their discharge from hospital, and the care home applies for a standard authorisation in advance whilst the person is still in hospital, it is the local authority in which the person was ordinarily resident before their admission to hospital which is responsible for acting as the supervisory body.
- 17.4 If the person arranges and pays for their own care in that care home (usually a deputy appointed by the Court of Protection under the 2005 Act would enter into a contract with the care home on their behalf), they would generally acquire an Ordinary Residence in the area in which their care home is located. However, they remain Ordinarily Resident where they were before admission to hospital until they are discharged from hospital.
- 17.5 Where two or more local authorities dispute the person's Ordinary Residence for the purpose of identifying which authority is the supervisory body, the 2005 Act provides that disputes may be determined by the Secretary of State or appointed person, or by the Welsh Ministers where they cannot be resolved locally.

18 Process for Seeking a Determination

- 18.1 The lead local authority must make a request in writing to the Secretary of State or appointed person, together with a statement of facts and other documentation. Local authorities should endeavour to produce a statement of facts that is jointly agreed. If the parties cannot agree on particular information, they should make clear what information the parties say is agreed, what information the parties say is in dispute and, as regards the latter, what the parties' respective versions of the facts are.
- 18.2 Advice should be sought from Legal Services about submission of the statement where Torbay is the lead local authority.
- 18.3 Once the Secretary of State or appointed person has made a determination, the local authority would put itself at risk of a legal challenge by the resident or their representative or the other local authorities to the dispute if it failed to have due regard to a determination by the Secretary of State or appointed person.
- 18.4 Having taken legal advice before making a submission a local authority may, in addition to the required documentation, provide a separate legal submission. In this case it should be exchanged between the local authorities in dispute and evidence of this should be supplied to the Secretary of State.

- 18.5 If in the process of making a determination the Secretary of State seeks further information this must be provided without delay.
- 18.6 If the local authorities involved in the dispute reach an agreement whilst the Secretary of State is considering the determination, they should notify the Department of Health. Both parties must confirm that the dispute has been resolved after which the determination will be closed down.
- 18.7 If the Secretary of State or an appointed person finds the other local authority to be the authority of Ordinary Residence, then as lead authority the County Council can recover costs from the authority which should have been providing the relevant care and support.
- 18.8 Disputes about a person's Ordinary Residence in connection with Section 117 arising with a local authority in Wales can be referred to the Secretary of State or Welsh Ministers for determination.

19 Other Provisions Under Which an Ordinary Residence Determination can be Sought

- 19.1 If a local authority receives notification from the NHS body of a person who it believes is Ordinarily Resident in another local authority area, it should inform the NHS body that has issued the notification immediately. If the NHS body agrees that the person is ordinarily resident elsewhere, it should withdraw the notification and re-issue it to the correct local authority.
- 19.2 If the NHS body does not agree that the person is Ordinarily Resident elsewhere, the local authority in receipt of the notification must proceed with carrying out the assessment and arranging for the provision of any necessary care and support. A person ready for discharge from hospital should not remain in hospital for longer than necessary because two or more local authorities have fallen into dispute about the person's place of Ordinary Residence.
- 19.3 Where a local authority has provisionally accepted responsibility for a person discharged from hospital but remains in dispute with one or more local authorities over the person's Ordinary Residence then as a last resort a determination can be sought from the Secretary of State in relation to which authority should reimburse the NHS body for the person's delayed discharge.

20 Financial Adjustments Between Local Authorities

- 20.1 Where the Trust has been paying for a person's care and support, but it later becomes apparent that the person is in fact Ordinarily Resident elsewhere we can reclaim the costs from the local authority where the person was ordinarily resident. This also extends to costs spent supporting the carer of the person whose Ordinary Residence was in dispute.

21 Reconsidering Disputes

21.1 If further facts come to light after a determination has been made, it may be appropriate for the Secretary of State or appointed person to reconsider the original determination.

21.2 Any review of the determination must begin within three months of the date of the original determination.

22 Contracts with Providers

22.1 If it is agreed that Ordinary Residence will be accepted for service users to be accommodated in Torbay, checks will need to be made with the Trust Procurement Department to ensure that the provider has a current and valid contract to provide the required services.

22.2 If the provider is an organisation that the Trust does not currently contract with, we may have to seek an alternative provider or offer a direct payment option.

22.3 For the avoidance of doubt placements must not be made with providers outside of a formal contractual agreement. The care manager co-ordinating the care is accountable for ensuring that this is the case.

23 References

- Sections 39-41 of the Care Act 2014;
- The Care and Support (Ordinary Residence) (Specified Accommodation) Regulations 2014;
- The Care and Support (Disputes Between Local Authorities) Regulations 2014.

24 Equality and Diversity Exceptions

24.1 N/A

25 Distribution

25.1 Available for reference by staff and public

The Mental Capacity Act 2005

The Mental Capacity Act provides a statutory framework for people who lack capacity to make decisions for themselves, or who have capacity and want to make preparations for a time when they lack capacity in the future. It sets out who can take decisions, in which situations, and how they should go about this. It covers a wide range of decision making from health and welfare decisions to finance and property decisions

Enshrined in the Mental Capacity Act is the principle that people must be assumed to have capacity unless it is established that they do not. This is an important aspect of law that all health and social care practitioners must implement when proposing to undertake any act in connection with care and treatment that requires consent. In circumstances where there is an element of doubt about a person's ability to make a decision due to 'an impairment of or disturbance in the functioning of the mind or brain' the practitioner must implement the Mental Capacity Act.

The legal framework provided by the Mental Capacity Act 2005 is supported by a Code of Practice, which provides guidance and information about how the Act works in practice. The Code of Practice has statutory force which means that health and social care practitioners have a legal duty to have regard to it when working with or caring for adults who may lack capacity to make decisions for themselves.

“The Act is intended to assist and support people who may lack capacity and to discourage anyone who is involved in caring for someone who lacks capacity from being overly restrictive or controlling. It aims to balance an individual's right to make decisions for themselves with their right to be protected from harm if they lack the capacity to make decisions to protect themselves”. (3)

All Trust workers can access the Code of Practice, Mental Capacity Act 2005 Policy, Mental Capacity Act 2005 Practice Guidance, information booklets and all assessment, checklists and Independent Mental Capacity Advocate referral forms on iCare

http://icare/Operations/mental_capacity_act/Pages/default.aspx

Infection Control

All staff will have access to Infection Control Policies and comply with the standards within them in the work place. All staff will attend Infection Control Training annually as part of their mandatory training programme.

Rapid (E)quality Impact Assessment (EqIA) (for use when writing policies)

| | | | |
|--|--|---|--|
| Policy Title (and number) | | Version and Date | |
| Policy Author | | | |
| An (e)quality impact assessment is a process designed to ensure that policies do not discriminate or disadvantage people whilst advancing equality. Consider the nature and extent of the impact, not the number of people affected. | | | |
| Who may be affected by this document? | | | |
| Patients/ Service Users <input type="checkbox"/> | | Staff <input type="checkbox"/> | Other, please state... <input type="checkbox"/> |
| Could the policy treat people from protected groups less favorably than the general population? <i>PLEASE NOTE: Any 'Yes' answers may trigger a full EIA and must be referred to the equality leads below</i> | | | |
| Age | Yes <input type="checkbox"/> No <input type="checkbox"/> | Gender Reassignment | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| Race | Yes <input type="checkbox"/> No <input type="checkbox"/> | Disability | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| Gender | Yes <input type="checkbox"/> No <input type="checkbox"/> | Pregnancy/Maternity | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| Sexual Orientation | | | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| Religion/Belief (non) | | | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| Marriage/ Civil Partnership | | | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| Is it likely that the policy could affect particular 'Inclusion Health' groups less favourably than the general population? (substance misuse; teenage mums; carers ¹ ; travellers ² ; homeless ³ ; convictions; social isolation ⁴ ; refugees) | | | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| Please provide details for each protected group where you have indicated 'Yes'. | | | |
| VISION AND VALUES: Policies must aim to remove unintentional barriers and promote inclusion | | | |
| Is inclusive language ⁵ used throughout? | | | Yes <input type="checkbox"/> No <input type="checkbox"/> NA <input type="checkbox"/> |
| Are the services outlined in the policy fully accessible ⁶ ? | | | Yes <input type="checkbox"/> No <input type="checkbox"/> NA <input type="checkbox"/> |
| Does the policy encourage individualised and person-centred care? | | | Yes <input type="checkbox"/> No <input type="checkbox"/> NA <input type="checkbox"/> |
| Could there be an adverse impact on an individual's independence or autonomy ⁷ ? | | | Yes <input type="checkbox"/> No <input type="checkbox"/> NA <input type="checkbox"/> |
| EXTERNAL FACTORS | | | |
| Is the policy a result of national legislation which cannot be modified in any way? | | | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| What is the reason for writing this policy? (Is it a result in a change of legislation/ national research?) | | | |
| Who was consulted when drafting this policy? | | | |
| Patients/ Service Users <input type="checkbox"/> | | Trade Unions <input type="checkbox"/> | Protected Groups (including Trust Equality Groups) <input type="checkbox"/> |
| Staff <input type="checkbox"/> | | General Public <input type="checkbox"/> | Other, please state... <input type="checkbox"/> |
| What were the recommendations/suggestions? | | | |
| Does this document require a service redesign or substantial amendments to an existing process? <i>PLEASE NOTE: 'Yes' may trigger a full EIA, please refer to the equality leads below</i> | | | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| ACTION PLAN: Please list all actions identified to address any impacts | | | |
| Action | Person responsible | Completion date | |
| | | | |
| | | | |
| AUTHORISATION: | | | |
| By signing below, I confirm that the named person responsible above is aware of the actions assigned to them | | | |
| Name of person completing the form | | Signature | |
| Validated by (line manager) | | Signature | |

Please contact the Equalities team for guidance:

For South Devon & Torbay CCG, please call 01803 652476 or email marisa.cockfield@nhs.net
 For Torbay and South Devon NHS Trusts, please call 01803 656676 or email pdf.sdhct@nhs.net

This form should be published with the policy and a signed copy sent to your relevant organisation.

Clinical and Non-Clinical Policies - General Data Protection Regulation (GDPR)

Torbay and South Devon NHS Foundation Trust (TSDFT) has a commitment to ensure that all policies and procedures developed act in accordance with all relevant data protection regulations and guidance. This policy has been designed with the EU General Data Protection Regulation (GDPR) in mind and therefore provides the reader with assurance of effective information governance practice.

GDPR intends to strengthen and unify data protection for all persons; consequently, the rights of individuals have changed. It is assured that these rights have been considered throughout the development of this policy.

Furthermore, GDPR requires that the Trust is open and transparent with its personal identifiable processing activities and this has a considerable effect on the way TSDFT holds, uses, and shares personal identifiable data. The most effective way of being open is through data mapping. Data mapping for GDPR was initially undertaken in November 2017 and must be completed on a triannual (every 3 years) basis to maintain compliance. This policy supports the data mapping requirement of the GDPR.

For more information:

- Contact the Data Access and Disclosure Office on dataprotection.tsdf@nhs.net,
- See TSDFT's [Data Protection & Access Policy](#),
- Visit our [GDPR](#) page on ICON