

1919

# Handling of illicit substances / illegal possession of drugs

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## Partners in Care

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### Document Information

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Author:	Graham Shiels, Service Manager, Torbay Drug and Alcohol Service Reviewed by , Lynda Price Pharmacist, Medicines Optimisation Team, Steve Willicott, Local Security Management Specialist		
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## 1 Introduction

- 1.1 This policy provides guidance to staff who may be exposed to the risk of handling suspected illegal substances and is designed for staff to follow safe practice and operate within legal guidance in the disposal of such substances.
- 1.2 This policy has been shared and agreed with the Drug Liaison Officer (DLO) for Devon and Cornwall constabulary.
- 1.3 For the purposes of this policy, the term "controlled drugs" refers to those substances defined by the Misuse of Drugs Act (1971), and include the following substances (note that this list is not exhaustive):-

Class A - Cocaine and crack cocaine, ecstasy, heroin, methadone, LSD, methamphetamine (crystal meth), magic mushrooms (containing psilocybin or esters thereof) or any class B drug that is prepared for injection (for example amphetamine).

Class B - Amphetamine, barbiturates, codeine and cannabis (resin / skunk - herbal), Methylphenidate (Ritalin®).

Class C - Anabolic steroids, ketamine, Gamma hydroxybutyrate (GHB) and benzodiazepines.

## 2 Statement/Objective

- 2.1 This policy provides staff with guidance on how to respond safely and legally to the discovery of illicit substances in their work setting.
- 2.2 This policy is designed to reduce the likelihood that Trust premises could be used for the supply, possession or use of illegal drugs, and to ensure and protect the safety of service users, visitors and health and social care professionals.
- 2.3 Drugs prescribed for service users that are no longer required (i.e. drugs returned by patients) are specifically excluded from this procedure.
- 2.4 This procedure applies to service users and visitors. Any suspicion that a member of staff is in possession of, using or supplying an illegal substance should be reported in accordance with the Trust's Policy "Alcohol, drugs and other substances policy" (HR19).

## 3 Roles & Responsibilities

- 3.1 This policy applies to all staff of Torbay and Southern Devon Health & Care NHS Trust (TSDHCT) who may come into contact with suspected illicit substances during the course of their day-to-day work.

- 3.2 The Accountable Officer for Controlled Drugs for Torbay and Southern Devon Health & Care NHS Trust is responsible for a range of measures relating to the monitoring of the safe use and management of controlled drugs within the organisation.
- 3.3 The Trust Board, through the Integrated Governance Committee has the corporate responsibility to ensure the implementation of the policy.
- 3.4 The Local Security Management Specialist (LSMS) is responsible for advising on security in relation to this policy and procedure. The LSMS will liaise with the police as necessary upon being made aware of a suspected illicit substance being discovered on TSDHCT premises. The LSMS will respond promptly when informed that a suspected illicit substance has been discovered on TSDHCT premises. The LSMS may be required to transport a suspected illicit substance to the police for safe disposal in accordance with the Misuse of Drugs Act (1971).
- 3.5 The Litigation Manager is available to advise on all legal aspects relating to this policy and procedure
- 3.6 The Police are responsible for:
  - a) Removing any quantity of suspected illicit substance deemed by the LSMS as too large or inappropriate for transportation to the police.
  - b) Responding promptly in cases where the service user refuses to relinquish any suspected illicit substances, or to other incidents related to this policy at the request of a manager / Nurse in Charge of a ward or department or other senior professional.
  - c) Reporting any concerns concerning illicit substance misuse within the Trust to the Accountable Officer for Controlled Drugs.
- 3.7 All TSDHCT managers have responsibility for their work areas and have a duty to ensure that drug taking and drug dealing is dealt with in accordance with Section 8 of the Misuse of Drugs Act (MDA) (1971) which states that " it is a criminal offence for people to knowingly allow premises they own, manage, or have responsibility for, to be used by any other person for: illicit administration or use of any controlled drugs, supply of any controlled drug or the production or cultivation of controlled drugs, such as growing cannabis".
- 3.8 All staff employed by TSDHCT are responsible for adhering to this policy and procedure at all times.

#### **4 Suspicion of possession or use of an illegal substance by a service user**

- 4.1 Any suspicion should be reported to the senior staff member on duty. The zone /service manager or their nominated deputy should be notified of any

suspicion that a service user is in possession of or is suspected of using an illicit substance.

- 4.2 The LSMS should be called in the first instance, and if unavailable the on-call manager should be notified.
- 4.3 Unless the service user gives their informed consent, and there is another staff member present, to witness the procedure, it is illegal to search a service user's property. A search of a person without that person's permission could potentially lead to that staff member being charged with assault. If a search is consented to, then it should be performed by a staff member of the same gender as the service user.
- 4.4 It should also be remembered that the return of an illicit substance to a service user by a member of staff can be interpreted as supply of an illegal drug and thus lead to criminal charges being brought against the staff member.
- 4.5 The decision on how to proceed should be taken in line with the usual considerations of service user confidentiality, and with the best interests of the service user in mind. Breach of confidentiality may be acceptable when a large amount of the substance is discovered that may be considered as being for supply rather than personal use, or when the manager responsible for the premises concerned is acting in line with their responsibilities under section 8 of the MDA 1971 (for example when an initial warning has previously been given about related incident(s) to the service user or if the police have previously been notified about the individual due to such concerns).
- 4.6 If, after discussion it is decided that action should be taken on the suspicion of staff then the senior member of staff in the service should convey the concern to the service user. The service user should be advised of the dangers of the potential interactions with their current treatment or the worsening of their physical and/or mental health. They should also be advised that the police may be notified about the suspicion/evidence that they are in possession of, or using an illegal substance on Trust premises.
- 4.7 The reasons for suspicion and advice given to the service user should be recorded in the service user's case file.
- 4.8 Any suspicion or evidence of possession or use of an illicit/illegal substance on Trust premises should be reported as an incident in all cases.

## **5 Knowledge of possession / use of a suspected illegal substance by a service user in a residential or community hospital setting**

- 5.1 The senior member of staff on duty should be notified of this and immediate action taken.
- 5.2 The senior member of staff on duty will notify the service user that possession of the substance is illegal and in the presence of a witness ask that the substance is surrendered voluntarily. It may be considered appropriate to notify the LSMS/security manager at this point in time.

- 5.3 If the substance is surrendered, then the procedure in appendix 1 of this policy should be followed, "procedure for the disposal of illegal drugs / substances".
- 5.4 Should the service user refuse to voluntarily surrender the suspected illicit substance, then the procedure described under "Action required if the service user refuses to surrender the suspected illegal substance" within this policy should be followed.
- 5.5 All actions taken should be clearly documented within the service user's case file.
- 5.6 Where appropriate, the service user should be offered a referral to Torbay Drug Treatment Services. A referral can be made either in writing or by phone to Walnut Lodge, Walnut Road, Chelston, Torquay TQ2 6HP. (Tel 01803 - 604330).
- 5.7 If not already actioned earlier, an incident form should be completed.

## **6 Action required if the service user refuses to surrender a suspected illegal substance**

- 6.1 If it is suspected that a criminal act is being committed, then the service user should be informed that the police will be called and that their identity will be disclosed.
- 6.2 Under no circumstances should any agreement be reached whereby the service user will receive controlled drug substitutes for surrendering illegal substances.
- 6.3 If, following this advice the service user still refuses to surrender a suspected illegal substance then under no circumstances are staff to exercise force to obtain this. The police should be called and the LSMS should be contacted and remain in attendance until the police arrive. In an in-patient setting, if the service user expresses a desire to self-discharge at this point in time, then medical staff should be informed immediately.
- 6.4 If a search is undertaken by police it may be helpful for a member of staff of the same gender as the service user to accompany the police officer. The police can only search female to female and male to male so for this type of incident a double crewed unit would usually attend. It is important to maintain the privacy and the dignity of the service user throughout the search.
- 6.5 It is the responsibility of the police to lead the investigation and decide upon the outcome in these cases.
- 6.6 When the police are asked to intervene and provide assistance, the service users name and date of birth (if known) will be given to them along with the reasons for suspecting the presence of illegal drugs. Pertinent information in relation to the clinical details of the service user will only be given if they have a direct bearing upon the need for a search to be undertaken.

- 6.7 Staff will document the reasons for informing the police in the service user's case file.
- 6.8 If the police are called, the police must be asked to accept responsibility for the suspected illegal substance and any subsequent action. Staff should be made aware that they might be asked to make a witness statement to the police in order to maintain the continuity of evidence.
- 6.9 Actions to ensure the removal of a suspected illegal substance from a service user should not delay any essential treatment for that individual. The only exception to this is where there is a risk of injury to TSDHCT staff.
- 6.10 In the case of a confused or unconscious service user where a substance may be discovered incidentally, the substance should be removed and disposed of following the procedure in appendix 1 of this policy. This must be done in the presence of a witness (a professionally trained member of staff or a manager). When the service user has recovered sufficiently, they should be informed that a suspected illegal substance was found and removed.
- 6.11 A discussion with the service user about drug misuse should be undertaken and referral into drug treatment offered (see section 4.15).
- 6.12 All actions must be fully recorded in the service user's case file.
- 6.13 If not already actioned earlier, an incident form should be completed.

## **7 Knowledge of possession / use of a suspected illegal substance by a service user in a community clinic setting / service users home**

- 7.1 In a community setting where lone working may apply, for example during a home visit, no TSDHCT staff member should request that a service user surrenders a suspected illicit substance.
- 7.2 If the substance is volunteered by a service user for "disposal" or similar, then the service user should be advised to dispose of the substance themselves. Under no circumstances should any staff member of TSDHCT leave premises in possession of a suspected illegal substance.
- 7.3 A record of the advice given should be made in the service user's case file.
- 7.4 A discussion with the LSMS should occur as soon as possible following the visit to ascertain if an illegal act may need reporting to the police (for example, large quantities of an illegal drug that may be considered as supplying, or cultivation of cannabis plants).
- 7.5 If not already actioned earlier, an incident form should be completed.

## **8 Knowledge of possession / use of an illegal substance by a visitor to TSDHCT premises**

- 8.1 *The Local Security Management Specialist (LSMS) should be contacted immediately when any suspected illicit substance is discovered on Torbay and Southern Devon Health & Care NHS Trust premises.***
- 8.2 There is no duty of confidentiality laid upon the Trust in respect of visitors who are suspected or known to be in possession of illegal substances.
- 8.3 Service user's interests must be paramount when deciding upon how to proceed when dealing with visitors.
- 8.4 If a visitor is suspected of using or supplying an illegal substance, this should be reported to the senior staff member on duty at that time. Consideration should also be given as to whether this should be reported to the senior manager on duty also.
- 8.5 If the visitor(s) are asked to surrender a suspected illegal/illicit substance but refuse, then they should be approached and asked to leave the premises immediately. The LSMS should be called to attend urgently in the event that the visitor(s) refuse to leave Trust premises. If the visitors decide to surrender the suspected illegal substance, then the guidance in appendix 1 should be followed.
- 8.6 Should the visitor(s) refuse to leave and/or surrender the suspected illegal substance, then they must be advised that it is suspected that a criminal act is being committed and that the police will be called.
- 8.7 An incident form should be completed.

## **9 Training**

- 9.1 Ward and departmental/service managers have the responsibility of ensuring that all staff within their area of responsibility are aware of, understand and comply strictly with this policy and procedure, and understand the legal implications of failing to do so.
- 9.2 Records will be held at departmental level of staff that have been sent, have read and understand this policy.

## **10 Monitoring, Auditing, Reviewing & Evaluation**

- 10.1 An Incident form will be completed in all situations whereby a suspicion or knowledge of possession or use of an illegal substance has occurred.
- 10.2 Any incidents occurring will be discussed at the TSDHCT Care Quality and Safety Committee and appropriate action plans constructed if there is evidence of any deviation from this policy.

10.3 Individual practitioners will be expected to demonstrate their understanding and competency in the execution of this policy to their line managers.

10.4 Relevant documentation will be audited in light of any incident that results in the temporary storage of any suspected illicit substance.

## **11 References**

11.1 Misuse of Drugs Act (1971) Parliament of the United Kingdom

## **12 Distribution**

12.1 TSDHCT will ensure dissemination of this policy across senior managers, Professional Leads and cascaded through zone teams.

12.2 Access to this policy will be ensured by using the TSDHCT Public website.

## Appendix 1 - Procedure for the disposal of illegal drugs / substances

- 1 If any substance is suspected to be illegal in nature, and is discovered or received by a staff member then the following steps must be followed.
- 2 Throughout this procedure, two staff members should be involved.
- 3 The substance should be stored in a sealable "freezer" bag or similar package.
- 4 Record the following on the package-
- 5 A description of the substance (do not assume any analysis has been conducted) e.g.: record "brown block" rather than "cannabis resin", or "white rock" rather than crack cocaine along with a description of the quantity/amount (an approximation will be sufficient).
- 6 When it was found (time and date).
- 7 Where it was found (e.g.: "received from a service user on Nightingale ward") Note that service user identifiable information must not be included on the package.
- 8 The sealed package must be signed by the senior manager on duty at the time of the incident as well as the witness. These signatures should be on a label used to seal the bag (ideally tamper evident) and maintain the audit chain through to custody by the police. The LSMS will always place any suspected illicit item into a sealed evidence bag upon arrival and for transportation to the police.
- 9 If the suspected illegal substance is associated with a particular service user, then a description of the substance and the associated circumstances should be recorded in the service user's case file. The record number of the package should also be recorded in the case file so that the substance can be traced if necessary.
- 10 In circumstances where the quantity of drug is sufficiently large that it is suspected that they were for supply rather than personal use, or where there is a previous history of warning for possession of a suspected illegal substance, it may be necessary to inform the police. The Local Security Management Specialist (LSMS) should be contacted for advice.
- 11 The package containing the substance must be placed in a secure lockable cupboard or safe away from public access while awaiting removal by the LSMS or police as deemed appropriate. This storage area should ideally have restricted staff access. In the absence of the LSMS, the on-call manager should be contacted for advice.

- 12 In an in-patient setting, a record should be made on the designated page in the wards controlled drugs register. The entry must include the date, the reference number (page number from the CD Register) stamped on the package and the signatures of the senior manager and witness.
- 13 The LSMS will contact the police to advise them of the discovery of a suspected illicit substance and seek permission to transport the item(s) to the police for disposal. It is deemed lawful under the Misuse of Drugs Act for the LSMS to take possession of a suspected illicit substance for transportation to the police providing the police have been notified in advance of the intention to do this.
- 14 The suspected illegal substance should not be sent to pharmacy, and under no circumstances should the substance be returned to the service user unless there is an immediate threat of violence and aggression towards the staff member and the safety of other service users/premises are at risk.

Nb: Lawful possession of a controlled drug: Providing they are acting in the lawful execution of their duty the following people can have in their possession controlled drugs: Police officers, customs and excise officers, carriers, forensic science laboratory personnel, post office employees and medical/nursing staff in the execution of their duty.