



Western Health
and Social Care Trust

**Policy on the Identification & Recording of
Next of Kin/Nearest Relative /Carer(s)**

**(where a patient has dependents and caring
responsibilities)**

July 2010

Title	Policy on the Identification and Recording of Next of Kin /Nearest Relative /Carer(s) (where a patient has dependents and caring responsibilities)
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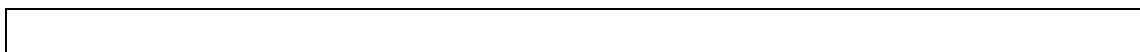


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This policy has been developed with reference to:

- Report of the Inquiry Panel (MO'N) to the Western Health & Social Care Trust and The Eastern Health and Social Care Trust - May 2007.
- Mental Health Order (NI) 1986.
- The Code of Practice --Mental Health Order (Northern Ireland) 1986.
- Guide to Mental Health Order 1986.
- Children Order (NI) 1995.
- Child Protection Regional Policy and Procedures 2006.
- Data Protection Act 1998.
- Human Rights Act 1998.
- DHSSPSNI 2004 Guidelines 'Discharge from Hospital and the Continuing Care in the Community of People with a Mental Disorder who could represent a Risk of Serious Physical Harm to Themselves or Others'.
- Assessment and Management of Risk – 2009 .
- Regional Adult Protection Policy and Procedural Guidance on Safeguarding Vulnerable Adults September 2006.

This policy should be read in conjunction with:

- Western Health & Social Care Trust Integrated Admission & Discharge Policy AdultMHD08 01.
- Western Health & Social Care Trust Admission and Discharge Checklists 2008.
- Western Health & Social Care Trust Admission of Children and Young Persons under 18 to Adult Psychiatric Wards 2008
- Western Health & Social Care Trust-- Data Protection and Confidentiality Info 08/001

Audit Process

A comprehensive audit process will be applied to the implementation of this policy and the processes/responsibilities outlined.

Equality & Human Right's Statement

The Western Health & Social Care Trust's Equality and Human Right's statutory obligations have been considered during the development of this policy.

1.0 Introduction

The MO’N Independent Inquiry Report (Recommendations 28) states that:

“DHSSPS and Boards should ensure that Trusts have a policy in relation to identifying and recording ‘Next of Kin’ information. Trusts should also consider the extent to which staff training and/or refresher training should be provided for front-line staff involved routinely in taking personal history details from patient/client, particularly in situations where patient/client have family issues relating to divorce, marital separation and dependent children.”

The “SHO should obtain all relevant background information from the referring GP or hospital and collateral information from the patient/client’s family, as far as practical, on the day of admission”

MO’N Independent Inquiry Report 2007

2.0 Aims

This policy provides clear guidance to staff regarding the collection and recording of information on next of kin/nearest relative /carer(s) involvement, where:

- A patient/client is admitted to hospital
- A patient/client is admitted to hospital and there are dependents, either vulnerable adults or those aged 18 or under, for whom they have caring responsibilities.
- A patient/client is admitted to hospital and the care arrangements for their dependents (vulnerable adults or those aged 18 years or under) are not clear or appropriate.

3.0 Scope

- This policy sets out the standards that all mental health/learning disability staff within the Western Health & Social Care Trust are required to comply with in respect to the identification and recording of next of kin/carers details, when a patient/client is being admitted to hospital.
- It is applicable to all mental health/learning disability patients/clients admitted to and discharged from the various adult mental health/child & adult learning disability inpatient/client facilities within the Trust.
- The development of local procedures/guidance must strictly adhere to the principles and standards set out herein.

4.0 Principles

- Next of kin/carer (s), should be engaged appropriately, whilst gathering information to inform the assessment process, and should be given an opportunity to express and/or discuss any concerns they may have.
- Next of kin/carer (s) should be involved in the decision-making process and care planning for their family members.
- Where a patient/client is accompanied by a relative or carer, a collateral history should be obtained (MO'N 2007).
- “Parents /carers have a right to respect and should be consulted with and involved in matters concerning their families”
Co-operating to Safeguard Children - Section 1.13
- Carers and users may have specific communication and information needs e.g. interpreting and translation, which could include the need for both written and verbal forms and for signers.

5.0 Confidentiality and Consent

The identification of next of kin/carer(s) and significant others, and the level of their involvement must be guided by the wishes of the patient/client and should be routinely reviewed.

- 5.1** Each patient/client should have the capacity to give consent assessed on an individual basis. In the event that they are unable to give consent owing to their mental state/learning disability this should be documented.
- 5.2** Refusal of consent by the patient/client to inform and involve family/carer(s) must be clearly documented and a multi disciplinary discussion should take place to consider the appropriateness of the refusal of consent to share information.
- 5.3** If there is an immediate risk identified by the admitting staff this refusal may be overridden to protect the safety of the patient/client or others. For example: concerns for the welfare of a child, a vulnerable adult or the patient/client's own safety will take precedence over confidentiality.

“There is a basic requirement in child protection situations that the interests and welfare of the child are paramount and take precedence over any other sensitivities there may be for relatives and other adults involved”

MO'N Independent Inquiry Report 2007

6.0 Definitions

6.1 **A Detained Patient/Client**

- A detained patient/client is a patient/client who has been admitted to hospital for assessment under the powers of the Mental Health Order (NI) 1986.
- He/she cannot leave the ward without permission, for a period of up to 7 days.
- If he/she leaves they may be brought back by staff or by the police (*Article 32.*)

During the initial 7 day period the Consultant Psychiatrist may decide to either:

- discharge him/her.
- allow him/her to remain as a voluntary patient/client.
- extend his/her detention for a further 7 days.

After this he/she may be kept for a further period of assessment or offered treatment.

6.2 **Identification and Recording of Next of Kin, Nearest Relative, Carer(s) for a Detained Patient/Client**

- The nearest relative is clearly identified under the Mental Health legislation and can only be one of the people listed.

Appendix 1

- The nearest relative will be informed of the admission in line with the Mental Health Order and Code of Practice to the Mental Health Order.
- If the patient/client has responsibility for dependents, including children or young people under the age of 18, staff should satisfy themselves that arrangements are in place for the care of those dependents.

Integrated Admission & Discharge Policy- AdultMHDS 08/001

6.3 **Voluntary Patient/Client**

A voluntary patient/client is one who has agreed to remain in the hospital but can leave at any time.

In all instances, where a voluntary patient/client is discharging him or herself contrary to medical advice, consideration should be given to the desirability of using powers to detain for assessment.

Integrated Admission & Discharge Policy AdultMHDS 08/001

7.0 General Principles for the Identification and Recording of Next of Kin/Carer(s) for all Patients/Clients

- 7.1 At point of admission all patients/client will be asked to inform staff of the name and contact details of their next of kin/carers if any.
- 7.2 Staff will ask if the patient/client has responsibility for dependents including:
- Parental responsibility (formal and informal) for children or young people aged 18 or under.
 - Responsibility for vulnerable adults.
- 7.3 If there are no identified concerns about dependent children/vulnerable adults, staff must record the reported care arrangements.
- 7.4 If concerns are identified either at the point of admission or during the patient/client's stay regarding dependents aged 18 or under, staff must discuss their concerns immediately with the Family and Childcare Gateway Team.

Between 9am – 5pm
After hours

See Appendix 2

Through the out-of-hours social work co-ordinator, via the following switchboard telephone numbers:

Altnagelvin Hospital (028) 71345171
Tyrone County Hospital (028) 82833100
Erne Hospital (028) 66382000.

A copy of the referral documentation (**UNOCINI**) must be copied to the hospital social worker for information.

- 7.5 All information must be recorded in the patient/client's notes in line with professional standards regarding record keeping.
- 7.6 Whilst taking collateral history from next of kin/carers staff must confirm the care arrangements with the individuals concerned.

8.0 Potential Confidentiality and Consent Issues

- 8.1 It is good practice for staff to inform patient/client that if they become aware of anything of a criminal nature or where child protection concerns are raised, staff have a duty to pass this information on immediately to the relevant agency.
- 8.2 Where a patient/client expressly forbids contact with the next of kin/carers staff must make a professional judgement about the adequacy of the care arrangements for dependents. If in doubt staff must contact the Gateway Team or the Trust Designated Officer for Protection of Vulnerable Adults or out-of-hours social work co-ordinator after 5pm.

- 8.3 In a situation where the parents of a child are estranged or divorced, the admitted parent may decide to withhold consent to allow contact to be made by staff with the estranged partner regarding his/her admission. This is dependent on there being no evidence of any concerns regarding the care arrangements for their dependent children. If such a situation arises staff must use their professional judgement in deciding whether to breach confidentiality and override the patients' wishes. This decision must be shared with the patient and a clear account made of the discussion and the rationale for their decision.
- 8.4 **If the staff member is uncertain of the procedures or has concerns about child protection issues, the safety and well being of the child is paramount and will override the human rights of the parents.**

Appendix 1

(These notes are for guidance only and do not constitute an exact statement of the provisions of the Mental Health (NI) Order 1986)

The nearest relative of a patient within the meaning of the Order is determined by the provisions of Articles 32 to 36 of the Order. In most cases it should be quite clear who is entitled to carry out the functions of the nearest relative. However, if, after reading these notes, you are still in doubt, you should consult a solicitor.

The Order defines “relative” as any of the following:-

- | | |
|------------------------------|---------------------|
| (a) spouse/civil partnership | (e) grandparent |
| (b) child | (f) grandchild |
| (c) parent | (g) uncle or aunt |
| (d) brother or sister | (h) nephew or niece |

The “nearest relative” for the purposes of the Order is then defined as the first person listed who is caring for the patient, or, if the patient is already in hospital, was caring for the patient before admission. For example, if a patient is being cared for by a grandchild, that grandchild would be the nearest relative within the meaning of the Order even though a son or daughter is still alive. The following additional points should be noted:-

if the patient has relatives but none is or was caring for him, then the “nearest relative” is simply the first person listed;

where there are two or more relatives in any one category, the elder or eldest is preferred;

an illegitimate person is treated as the legitimate child of his mother;

in deducing relationships, a relative of the half-blood is treated as a relative of the whole blood but, in any particular category of relative, a relative of the whole blood is preferred to a relative of the half-blood;

where the person who would otherwise be the nearest relative of a patient is under 18 years of age, that person is disregarded unless he or she is the spouse or parent of the patient;

where a marriage is broken up, and the person who would otherwise be the nearest relative of the patient by virtue of being his or her spouse is no longer living with the patient, that person is disregarded;

where a person who would otherwise be the nearest relative ordinarily resides outside the United Kingdom, the Channel Islands, the Isle of Man or the

Republic of Ireland, that person is disregarded unless the patient also ordinarily resides outside those countries;
for the purposes of the Order, the term “spouse” includes a person who is living with the patient as though they were married, or – if the patient is already in hospital – had been so living with him or her before admission, and has been or had been so living for not less than 6 months. If such a person is making the application, he or she should state the relationship with the patient as “spouse” and should add the words “by virtue of Article 32(5) of the Order”. A person with whom the patient ordinarily resides and has been so resident for at least 5 years, but who is not a relative and cannot be regarded as a “spouse” in the terms of the previous sub-paragraph, is treated as the nearest relative within the meaning of the Order if he or she is caring for the patient or, where the patient is already in hospital, was caring for the patient before admission. If such a person is making the application, he or she should state the relationship with the patient as “friend with whom the patient has resided in terms of Article 32(6) of the Order”.

Article 33 deals with cases where children are taken into care, and provides that the Health and Social Services Board or person exercising parental rights in such a case is deemed to be the nearest relative within the meaning of the Order.

Article 34 deals with cases where children are under guardianship or in the custody of one parent, and provides that the person having the guardianship or custody of the patient shall be deemed to be the nearest relative for the purposes of the Order.

Article 35 allows the nearest relative of a patient who is detained in hospital or subject to guardianship under the Order to assign his or her functions under the Order to a person willing to assume them. In this situation Form 20 must be completed.

Article 36 enables a county court to appoint an acting nearest relative in any case where an application is made to it in accordance with the provision of that article.

Appendix 2

On the 2nd March 2009 The Western Health and Social Care Trust formally launched a new single telephone number for all new referrals to the Children's Social Work Gateway service.

The new telephone number is 028 71314090 and will be open for calls Monday to Thursday from 9am to 5pm and Friday from 9am to 4.30pm.

The number is the same for anyone calling regardless of their location within the Western Trust area:

Out of hours emergency service responds to urgent requests between 5pm - 9am and can be contacted via the switchboard as follows:

**Altnagelvin Hospital (028) 71345171
Tyrone County Hospital (028) 82833100
Erne Hospital (028) 66382000.**

The Gateway telephone number will provide a central point of contact for people who wish to share a concern or seek advice about a child / young person who is not already known to social services. The single contact number means that the team can respond quickly to the needs of children and families who are referred for a Social Work Service.

The Gateway team is an important element of the Children's Services to provide an appropriate response to children and families in need. An important feature of the Gateway Service is working in partnership with children and families to address any concerns they have, to assess their needs and to identify appropriate support whether within social services or elsewhere."

The Gateway Team can help with requests for information, advice and concerns about a child or family.