Policy Reference: 029

Discharge Against Medical Advice (Adult)

Version: 4

| Name and Designation of Policy Author(s) | Lesley Metcalfe, Deputy Director of Nursing  
Carl Griffiths, Named Nurse Adult Protection |
<table>
<thead>
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<tr>
<td>Ratified By (Committee / Group)</td>
<td>Clinical Governance Team</td>
</tr>
<tr>
<td>Date Ratified</td>
<td>17th May 2013</td>
</tr>
<tr>
<td>Date Published</td>
<td>29th May 2013</td>
</tr>
<tr>
<td>Review Date</td>
<td>17th May 2016</td>
</tr>
<tr>
<td>Target Audience</td>
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| Other Associated Strategies, Policies,  | Trust Policy 003 - Safeguarding Adults Procedure & Guidance  
Procedures, etc                  | Trust Policy 149 - Management of Patients Attending with a Learning Disability  
Trust Policy 237 - Role of the Mental Capacity Act 2005 in Acute Healthcare  
Delivery                   | Trust Policy 027 - Discharge Policy and Procedure  
Trust Policy 057 - Safeguarding Children Policy and Procedure  
Trust Policy 217 - Deprivation of Liberty Safeguards |
Patient indicates they wish to discharge themselves from hospital against medical advice

Is there a concern regarding capacity based on the patients behaviour or circumstances

**NO**

Contact the appropriate health care professional to review and to discuss the implications of discharge at this stage of treatment

Attempt should be made to find the real reason for concerns and to try to dissuade the patient from self-discharge by resolving the problems

If the health care professional responsible for the patient’s care considers self-discharge is not in the best interests of the patient, complete “Discharge Against Medical Advice” form (See Appendix 1 and 1a).

**YES**

Complete a decision specific capacity assessment in accordance with the principles 1-3 of the MCA 2005

Does the patient have capacity?

**YES**

Contact those interested in the persons welfare and discuss how to proceed in their best interest. Complete Appendix 2.

If restraint or advice on behaviour management is required refer to the Safeguarding Team **ext. 2442**

**NO**

If there is a suspicion or disclosure of abuse a referral to the Safeguarding Team should be completed
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</table>
1 Introduction

Patients have the right to determine if they wish to stay in hospital or not, providing they are over the age of 16 and not detained under the Mental Health Act 1983.

WUTH has a legal duty to ensure before a patient makes the decision to discharge themselves they are given all the information required to enable them to make an informed decision.

If they have the mental capacity to understand the risk, benefits and consequences of their decision to discharge themselves against medical advice, they should not be assumed to lack the capacity to make the decision just because other people think their decision is unwise (section 1(4) MCA 2005). Their view must be respected and they must be allowed to leave.

It is essential therefore that the health care professional who is explaining this information to the patient is aware of their duty to consider the patient’s mental capacity at the time and if felt necessary arrange for a formal mental capacity assessment prior to allowing the patient to leave.

2 Purpose

The purpose of this policy is to provide a framework to support health care professionals involved with a patient intent on discharging him/her self against medical advice following attendance and/or admission to Wirral University Teaching Hospital Trust.

It provides a structure which if followed will enable

- A capacitated patient to make an informed decision
- An incapacitated patient to be protected from making a wrong decision

And

The health care professional is protected by following the stated process and recording same.

3 Scope

The guidance in this Policy and Procedure applies to all staff who are involved in the discharge of patients over the age of 18 years. The policy does not apply to minors (refer to Trust Policy 028 - Discharge Against Medical Advice (Minor)).

4 Patients with Mental Capacity

If a patient informs a member of staff they wish to self-discharge against medical advice, consideration as to the patient’s mental capacity to make this decision to self discharge should be taken. The Mental Capacity Act 2005 (Section 4.35) states ‘There are a number of reasons why people may question a person’s capacity to make a specific decision’ they are:
• The person’s behaviour or circumstance cause doubt as to whether they have capacity to make a decision.

• Somebody else says they are concerned about the person’s capacity

Or

• The person has previously been diagnosed with an impairment or disturbance that affects the way their mind or brain works and has already been shown they lack capacity to make other decisions about their life.

In the event the patient does have capacity an appropriate health care professional should be contacted to come and review patient as soon as possible and discuss the implications of discharge at this stage in their treatment.

An attempt should be made to find the real reason for concerns and to try to dissuade the patient from self-discharge by resolving the problems, if possible.

If the health care professional responsible for the patient’s care agrees to patient discharge, the nursing staff can proceed to organising discharge as per normal hospital policy.
In the event of discharge against medical advice, the relevant agencies should be notified as soon as possible. These would include the patient’s GP, Consultant in charge and Social Services where appropriate.

All discussions between medical / nursing staff and the patient should be clearly documented in the patient’s notes and the appropriate forms (appendix 1 and 1a) completed. This information must also be recorded on the PCIS screen.

If the patient refuses to sign the “Discharge Against Medical Advice” form (Appendix 1), this must also be recorded in the case notes and on PCIS

If the patient, during their admission, has disclosed that they are suffering abuse a referral to the Safeguarding Team should be completed. For further guidance please refer to Policies 035 (Domestic Abuse), 57 (Child Protection) and 003 (Abuse and Mistreatment of Vulnerable Adults).

Please note – relatives and carers cannot make the decision to take discharge against medical advice on behalf of the patient. The only person, who can self-discharge if mentally competent, is the patient.

### 5 Patients who Lack Mental Capacity

Anyone who claims that a patient lacks capacity should be able to provide proof. They need to be able to show, on the balance of probabilities, that the individual lacks capacity to make a particular decision, at the time it needs to be made (MCA Section 2(4)). This means being able to show that it is more than likely than not that the person lacks the capacity to make the decision in question.

All clinical staff should adhere to the following guidelines:
- Formal Mental Capacity Assessment should be completed as per the MCA 2005.

- This should be documented on appendix 2 and placed in the medical case notes.

- If the healthcare professional considers the patient is deemed incompetent by lack of mental capacity to understand the full implications of self-discharge and discontinuation of treatment, there is a duty on the healthcare professional to act in the patient’s best interests.

- The healthcare professional must make every practicable effort to discuss the decision with those interested in the welfare of the person assessed as part of making a best interest decision. Please refer to Trust Policy 237 - Role of the Mental Capacity Act 2005 in Acute Healthcare Delivery for further guidance.

5.1 Use of Restraint within a Best Interest Decision (Section 6 MCA 2005)

Following consultation with family / friends, if it is considered in the best interest for the patient to stay in hospital but the patient still wishes to leave then in accordance with the Mental Capacity Act 2005 Section 6.4 /6.41 restraint may be used.

Any type of restraint is only permitted if the person using it believes it is necessary to prevent harm to the incapacitated person, any restraint used must be proportionate, reasonable, justified to the likelihood and seriousness of the harm.

If the healthcare professional completing the best interest decision proposes restraint is in the best interest of the patient, they will ensure:

- Any plan of care proposing restraint under Section 6.4 MCA 2005 should be completed in conjunction with the Specialist Nurse, Aggression Management who can be contacted via Safeguarding Team ext. 2442. This plan of care should be clearly documented in the patient’s medical notes.

- The Hospital Manager / Duty Manager must always be informed if the patient is to be held under the Mental Capacity Act 2005.

- In the event of any type of restraint is proposed for a period longer than 72 hrs the patient must be referred to the Safeguarding Team ext. 8082 at first opportunity for consideration of Deprivation of Liberty Safeguards.

Any action intended to restrain a person who lacks capacity will not attract protection from liability unless the following two conditions are met (Section 6.41 MCA 2005):

- the person taking action must reasonably believe that restraint is necessary to prevent harm to the person who lacks capacity, and

- the amount or type of restraint used and the amount of time it lasts must be a proportionate response to the likelihood and seriousness of harm.
This policy should act as a guide in the management of patients who wish to self-discharge and may be subject to further change.

6 Definitions

Capacity : The ability to make a decision at the time it needs to be made  
MCA : Mental Capacity Act  
BI : Best Interest  
DoLs : Deprivation of Liberty Safeguards  
Restraint: The use or threat of force where an incapacitated person resists. This includes any restriction of liberty or movement whether or not the person resists, an example could be the use of a door being closed (locked or unlocked) or an individual standing or sitting near a person with the intent and purpose to restrict their movement & liberty.

7 Duties / Responsibilities

7.1 Director of Nursing and Midwifery

The Director of Nursing and Midwifery is responsible for ensuring that this policy is implemented and reviewed every 3 years or sooner in light of new guidance.

Medical, Nursing and Midwifery staff are responsible for ensuring that the process described in this document is followed for a patient seeking to discharge themselves against medical advice.

Medical / Nursing / Midwifery Staff are responsible for ensuring that if considered necessary a formal mental capacity assessment is completed prior to discharge.

8 References


Appendix 1

Discharge Against Medical Advice
Consent Form
Page 1 of 2

<table>
<thead>
<tr>
<th>Patient Details</th>
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<tbody>
<tr>
<td>Patient Name: .......................................................... Casenote No: ..................................</td>
</tr>
<tr>
<td>Address: ................................................................................................................................</td>
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<td>...............................................................................................................................................</td>
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<tr>
<td>Date of Birth: ............................................. Gender: .........................................................</td>
</tr>
<tr>
<td>Ward: ........................................................ Consultant:........................................................</td>
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</tbody>
</table>

Patient’s Declaration

I, the above named patient, wish to take my own discharge. It has been explained to me that this is against the advice of the clinical staff caring for me. I acknowledge that I have been fully informed of the potential risks and benefits, and I accept full responsibility for my actions and any consequences arising from discharging myself in this way.

Patient’s Signature: .......................................................... Date:..............................................

Healthcare Professional Declaration

I confirm that I reasonably believe the patient has capacity to make this decision and have fully explained to the patient the following potential risks, benefits and consequences (see below) of taking their discharge at this time against clinical advice.

...............................................................................................................................................
...............................................................................................................................................
...............................................................................................................................................

Healthcare Professional Signature: .............. Date: ................. Time: .................

Status..........................................................
Appendix 1a

Discharge Against Medical Advice
Consent Form
Page 2 of 2

ADULT

Copy to:

General Practitioner: ☐ Informed by Telephone ☐ Informed by Fax

GP Name: ................................................................. Tel No: .................................

GP Address: ..................................................................................................................................
..............................................................................................................................................
..............................................................................................................................................

Other Agencies Informed (please state)
..............................................................................................................................................
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Any Additional Comments
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Please ensure this form is immediately placed in the patient’s case notes and a copy is faxed to the Safeguarding Team on ext. 2578
## Discharge Against Medical Advice for a patient lacking mental capacity

### Consent Form

#### ADULT

<table>
<thead>
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<th><strong>Patient Details</strong></th>
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<td><strong>Date of Birth:</strong> .............................................  <strong>Gender:</strong> .......................................................</td>
</tr>
<tr>
<td><strong>Ward:</strong> ........................................................  <strong>Consultant:</strong> .......................................................</td>
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</tbody>
</table>

### Assessment of patient’s capacity (in accordance with the Mental Capacity Act 2005)

I confirm the above patient lacks capacity to decide to take their own discharge against medical advice due to the following impairment of the mind or brain or disturbance affecting the way their mind or brain works:

…………………………………………………………………………………………………………  

They are also unable despite appropriate support to do one of the following:

- [ ] Understand information relevant to the decision (risks, benefits and consequences)
  
  Please detail information given and how they failed to demonstrate understanding.
  
  ……………………………………………………………………………………………………………  
  ……………………………………………………………………………………………………………  
  ……………………………………………………………………………………………………………  

- [ ] Retain the information in their mind
  
  Please detail how they failed to demonstrate retention.
  
  ……………………………………………………………………………………………………………  

- [ ] Use or weigh up the information as part of the decision making process.
  
  Please detail how they failed to demonstrate weighing up the information.
  
  ……………………………………………………………………………………………………………  

☐ Communicate their decision (by talking, using sign language or any other means)

…………………………………………………………………………………………
…………………………………………………………………………………………

Assessment of patient’s best interest

Does the patient have a valid advance decision that specifically relates to their reason for self discharge?
Please note in the event the patient does have a valid advance decision relating to a refusal of treatment and it is for this reason that they wish to self discharge then this should be followed unless there are safeguarding concerns.

Yes ☐ No ☐

Has the patient appointed a Lasting Power of Attorney for Health and Welfare?

Yes ☐ No ☐

Please note in the event a Lasting Power of Attorney for Health and Welfare has been appointed they must be consulted and their views acted on unless there are safeguarding concerns.

Best Interest Checklist (please tick when task completed)

a) I have encouraged and assisted the patient to participate in the decision ☐
b) I have considered all factors relevant to the decision ☐
c) I have attempted to find out the views of the patient, including their past and present wishes and feelings, and taken these into account ☐
d) I have not based my assessment solely on the patient’s age, appearance, condition or behaviour ☐
e) I have considered whether the patient might regain capacity, and if so, whether the decision can be delayed ☐
f) I reasonably believe any type of restraint proposed is necessary to prevent harm to the patient and is proportionate, reasonable and justified to the likelihood and seriousness of harm ☐

Please provide details of how you have completed tasks a – f, and include the factors that you have taken into consideration in making your decision

…………………………………………………………………………………………
…………………………………………………………………………………………

I have considered the patient’s best interests in accordance with the requirements of the Mental Capacity Act 2005, and believe hospital admission to be in their best interests because:

…………………………………………………………………………………………
…………………………………………………………………………………………

Please ensure this form is immediately placed in the patient’s case notes and a copy is faxed to the Safeguarding Team on ext. 2578
Consultation, Communication and Implementation

<table>
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<tr>
<th>Consultation Required</th>
<th>Authorised By</th>
<th>Date Authorised</th>
<th>Comments</th>
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<tr>
<td>Equality Analysis</td>
<td>Carl Griffiths</td>
<td>27th February 2013</td>
<td>Full Impact assessment not required</td>
</tr>
<tr>
<td>Policy Group</td>
<td>Joe Roberts</td>
<td>17th June 2012</td>
<td>Checked for workforce / development, medicines, finance, NHSLA standards or wider corporate implications.</td>
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</table>
| Other Stakeholders / Groups Consulted as Part of Development | Mental Capacity Act steering Group  
Hill Dickinson  
Divisional Clinical Governance Groups |                      |                                                                          |
| Trust Staff Consultation via Intranet | 3rd June 2010 – 17th June 2010 |               |                                                                          |

<table>
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<th>Date notice posted in the News Bulletin.</th>
<th>Date notice posted on the intranet</th>
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<tbody>
<tr>
<td>June 2013</td>
<td>May 2013</td>
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<table>
<thead>
<tr>
<th>Describe the Implementation Plan for the Policy / Procedure (Considerations include; launch event, awareness sessions, communication / training via DMBs and other management structures, etc)</th>
<th>By Whom will this be Delivered?</th>
</tr>
</thead>
<tbody>
<tr>
<td>At local induction all new staff will be made aware of Policy and Procedure. Existing staff will be made aware of the amendments to the Policy and Procedure through TIE brief. The Policy and Procedure can be accessed on the Trust Intranet</td>
<td>Ward/Department Managers or staff who with delegated responsibility (eg Staff Nurse)</td>
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</table>

Version History

<table>
<thead>
<tr>
<th>Date</th>
<th>Ver</th>
<th>Author Name and Designation</th>
<th>Summary of Main Changes</th>
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<tr>
<td>Feb 2004</td>
<td>1</td>
<td>Sue Elliott, Deputy Director of Operations</td>
<td></td>
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<tr>
<td>Jan 2006</td>
<td>2</td>
<td>Sue Elliott, deputy Director of Operations</td>
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</table>
| April 2010 | 3   | Carl Griffiths, Vulnerable Adults  
Lesley Metcalfe Deputy Director of Nursing | Change author and action plan monitoring committee                       |
| February 2013 | 4   | Carl Griffiths, Named Nurse Adult Protection     | Insert of flowchart. Policy review no change to process.                |
## Monitoring Compliance with the Policy

<table>
<thead>
<tr>
<th>Describe Key Performance Indicators (KPIs)</th>
<th>Target</th>
<th>How will the KPI be Monitored?</th>
<th>Which Committee will Monitor this KPI?</th>
<th>Frequency of Review</th>
<th>Lead</th>
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<tbody>
<tr>
<td>All patients over 18 years of age who take their own discharge will have a completed Discharge Against Medical Advice form in their medical record</td>
<td>100%</td>
<td>Audit</td>
<td>Trust Wide Clinical Governance Team</td>
<td>Annual</td>
<td>Corporate Nursing &amp; Midwifery Audit Team</td>
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## Performance Management of the Policy

<table>
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<th>Which Committee Will Monitor These Action Plans?</th>
<th>Frequency of Review (To be agreed by Committee)</th>
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<tbody>
<tr>
<td>Deputy Director of Nursing</td>
<td>Trust Wide Clinical Governance Team</td>
<td>Quarterly</td>
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