

DOCUMENT CONTROL	
Title:	Use of Mobile Phones and Tablets (by services users & visitors in clinical areas) Policy
Version:	5
Reference Number:	CL062
Scope:	
<p>This Policy applies all employees of the Trust, temporary staff, volunteers, contract and agency staff and any other persons working on behalf of the Trust.</p> <p>This policy applies to all people who use services, both as inpatients and those attending outpatient services or community based services that need to maintain their social networks, and visitors to Trust's premises.</p> <p>Section 7 of this policy specifically covers inpatients who are subject to the Mental Health Act 1983 and their access to mobile phones and other mobile devices, such as tablets and laptops, including access to the internet and social media.</p>	
Purpose:	
<p>This Policy aims to help everyone understand the importance of ensuring that patients remain safe from harm and intrusion, that they are treated with dignity, and enjoy privacy and comfort during their stay in Mental Health wards within Pennine Care NHS Foundation Trust.</p>	
Requirement for Policy	
Mental Health Act Code of Practice (2015)	
Keywords:	
Mental Health Act, mobile phones, recording, visitors, code of practice, video, contact, human rights act, mobile device, smartphones	
Supersedes:	
Supersedes: Version 4	
Description of Amendment(s):	
Updated for MHA Code of Practice, 2015	
Owner:	
Mental Health Law Manager	

Individual(s) & group(s) involved in the Development:	
This document has been developed in collaboration with the following interested parties:	
<ul style="list-style-type: none"> • Mental Health Law Scrutiny Group • Acute Care Forum 	
Individual(s) & group(s) involved in the Consultation:	
The document has been circulated for consultation and comments have been taken into consideration and the document amended accordingly:	
<ul style="list-style-type: none"> • Mental Health Law Scrutiny Group • Acute Care Forum • Local Borough Forums 	
Equality Impact Analysis:	
Date approved:	5 th July 2018
Reference:	CL062 – EIA062
Freedom of Information Exemption Assessment:	
Date approved:	3 rd July 2018
Reference:	POL2018-06
Information Governance Assessment:	
Date approved:	6 th July 2018
Reference:	POL2018-06
Policy Panel:	
Date Presented to Panel:	9 th of July 2018
Presented by:	Mia Majid
Date Approved by Panel:	
Policy Management Team tasks:	
Date Executive Directors informed:	17 th of July 2018
Date uploaded to Trust's intranet:	18 th of July 2018
Date uploaded to Trust's internet site:	18 th of July 2018
Review:	
Next review date:	July 2021
Responsibility of:	Mental Health Law Manager

Other Trust documentation to which this guideline relates (and when appropriate should be read in conjunction with):	
CO031	Security policy
CL054	Guidance on the management of pornography and sensitive material on inpatient units
CL063	Patients' Property Policy and Procedure
IG013	Information Governance Staff Handbook
Policy Associated Documents:	
TAD_CL062_01	Record of Decision to Remove a Mobile Phone from an Inpatient
Other external documentation/resources to which this guideline relates:	
	Mental Health Code of Practice
	Human Rights Act
CQC Regulations	
This guideline supports the following CQC regulations:	

Contents Page

i	Guiding Principles of the Mental Health Act Code of Practice	5
1.	Introduction	6
2.	Purpose	6
3.	Responsibilities, Accountabilities & Duties	7
4.	Procedure Outpatient Clinics and Community Based Services	7
5.	Procedure Inpatient Units	8
6.	Breach of Restriction	10
7.	Persons detained under the Mental Health Act 1983	10
8.	Communication	11
9.	Involvement of Other Agencies	11
10.	Loss and Damage	12
11.	Equality Impact Analysis	12
12.	Freedom of Information Exemption Assessment	12
13.	Information Governance Assessment	12
14.	Safeguarding	12
15.	Monitoring	13
16.	Review	13
17.	References	13

i. GUIDING PRINCIPLES

It is essential that all those undertaking the functions under the Mental Health Act 1983 (MHA) understand the five sets of overarching principles which should always be considered when making decisions in relation to care, support or treatment provided under the Act.

The five overarching principles are:

- **Least restrictive option and maximising independence**
Where it is possible to treat a patient safely and lawfully without detaining them under the Act, the patient should not be detained. Wherever possible a patient's independence should be encouraged and supported with a focus on promoting recovery wherever possible.
- **Empowerment and involvement**
Patients should be fully involved in decisions about care, support and treatment. The views of families, carers and others, if appropriate, should be fully considered when taking decisions. Where decisions are taken which are contradictory to views expressed, professionals should explain the reasons for this.
- **Respect and dignity**
Patients, their families and carers should be treated with respect and dignity and listened to by professionals.
- **Purpose and effectiveness**
Decisions about care and treatment should be appropriate to the patient, with clear therapeutic aims, promote recovery and should be performed to current national guidelines and/or current, available best practice guidelines.
- **Efficiency and equity**
Providers, commissioners and other relevant organisations should work together to ensure that the quality of commissioning and provision of mental healthcare services are of high quality and are given equal priority to physical health and social care services. All relevant services should work together to facilitate timely, safe and supportive discharge from detention.

All decisions must be lawful and informed by good professional practice. Lawfulness necessarily includes compliance with the Human Rights Act 1998 (HRA) and Equality Act 2010.

All five sets of principles are of equal importance, and should inform any decision made under the Act. The weight given to each principle in reaching a particular decision will need to be balanced in different ways according to the circumstances and nature of each particular decision.

Any decision to depart from the directions of the policy and the Code of Practice must be justified and documented accordingly in the patient's case notes. Staff should be aware that there is a statutory duty for these reasons to be cogent and appropriate in individual circumstances.

1. INTRODUCTION

The trust recognises that communication with family and friends is an essential element of support and comfort for service users either in hospital or whilst receiving care as an outpatient and that mobile technology can play an important part in keeping service users connected with those important to them. Modern technology has made communication relatively easy through the widespread use of mobile phones, tablets, I-devices and digital messaging such as SMS, instant messaging, email and use of social media and blog. Hospital staff should make conscious efforts to respect the privacy and dignity of patients as far as possible, while maintaining safety.

2. PURPOSE

The Use of Mobile Phones/Electronic Recording Equipment by People Who Use Services & Visitors in Clinical Areas Including Detained Inpatients Use of Mobile Phones

- Article 8 of the European Convention on Human Rights (ECHR) requires public authorities to respect a person's right to a private life. This includes people detained under the Act. Privacy, safety and dignity are important constituents of a therapeutic environment. Hospital staff should make conscious efforts to respect the privacy and dignity of patients as far as possible, while maintaining safety. Hospital restrictions on the use of mobile phones and other mobile devices (including access to the Internet and social media) could breach Article 8, if these restrictions cannot be justified as necessary and proportionate responses to risks identified for individuals.
- This policy aims to provide clear guidance for the use of mobile phones and/or electronic recording equipment for services users, staff and visitors. It aims to set out clear guidance as to when the use of such equipment can be considered to be unreasonable. If a patient asks to make a recording, or a patient is found to be recording, please also refer to guidance set out in the Information Governance Staff Handbook.
- This policy aims to strike a balance between the confidentiality and right to privacy of individuals and the need to protect vulnerable adults, maintaining their health and safety in terms of safeguarding them from potential abuse.
- Mobile phones and other electronic devices commonly have functions including cameras and video and voice recording capability. There is therefore the potential for patients and visitors to use such equipment in a way that interferes with the confidentiality, dignity and privacy of other patients, staff and visitors. Staff should be mindful of enabling patients and visitors to maintain communication and contact while protecting others against the misuse of such technology.
- Communication with family and friends is integral to a patient's care. Inpatient staff should make every effort to support patients in making and maintaining contact with their family and friends by telephone (either personal mobile or using the phones available on the wards), email or social media. This contact (as moderated herein) should be recognised as an essential element of support and comfort.

- This policy has been developed in accordance with the following documents:
 - Using Mobile Phones in NHS Hospital, Department of Health, January 2009
 - Code of Practice to the Mental Health Act 1983, Department of Health, 2015
- This policy may also be applied where a mobile phone or tablet is being used for any other purpose including gaming, web access or mobile television.

3. RESPONSIBILITIES, ACCOUNTABILITIES AND DUTIES

Service/Executive Directors

Ensure that service managers have clearly defined responsibilities for managing the confidentiality of service users and staff within their service

Monitor and review any adverse incidents in relation to this policy

Senior Managers

Ensuring staff whom they are responsible for are aware of and adhere to this policy.

Ensuring staff are updated in regard to any changes in this policy.

Ensure that all adverse incidents are reported and reviewed.

Ensuring that staff are aware of their obligations under UK data protection laws (including General Data Protection Regulation).

All staff

This Policy applies to all employees of the Trust, temporary staff, volunteers, contract and agency staff and any other persons working on behalf of the Trust.

Service Users

This policy also applies to all people who use services, both as inpatients and those attending outpatient services or community based services that need to maintain their social networks, and visitors to Trust's premises.

Highlighted areas of this policy specifically cover inpatients who are detained under the Mental Health Act 1983 and their access to mobile phones and other mobile devices, such as tablets and laptops, including access to the Internet and social media.

4. PROCEDURE OUTPATIENT CLINICS & COMMUNITY BASED SERVICES

Staff should discourage services users and visitors from bringing their mobile phones onto day care units and into outpatient clinics to avoid loss, theft or damage.

Staff should inform service users of the risk of theft/loss of the phone and the restrictions placed on the use of mobile phones. Those who choose to retain their mobile phones must be informed of and asked to consent to the following restrictions placed on their use:

- No use of the recording or photography facility because of the potential risk for the violation of the privacy and dignity of other patients, staff and visitors and may constitute a security risk;
- To have equipment on a silent setting so that all patients can expect a peaceful environment, as constant interruptions from ringing telephones have a potentially anti-therapeutic effect;
- Not to lend equipment to other patients.
- Avoid use in communal areas due to the difficulties in identifying when camera or recording functions are being used.

If a patient asks to make a recording, or a patient is found to be recording, please also refer to guidance set out in the Information Governance Staff Handbook.

Permission is to be requested by the patient who wishes to charge their mobile device using a charging cable. In deciding whether or not to grant permission, the clinical team must undertake an appropriate risk assessment. Charging of mobile phones is to be limited to a designated area as decided by the local staff.

5. PROCEDURE INPATIENT UNITS

The use of blanket rules across a ward restricting mobile usage is not acceptable and each decision must be made on individual patient circumstances.

When patients are admitted, staff should assess the risk and appropriateness of patients having access to mobile phones and other electronic devices and this should be detailed in the patient's care plan. Particular consideration should be given to people who are deaf who will have special communication needs. Patients should be able to use such devices if deemed appropriate and safe for them to do so and access should only be limited or restricted in certain risk assessed situations.

Staff should also inform service users of the risk of theft/loss of the phone and the restrictions placed on the use of mobile phones. Those who choose to retain their mobile phones must be informed of and asked to consent to the following restrictions placed on their use:

- No use of the recording or photography facility because of the potential risk for the violation of the privacy and dignity of other patients, staff and visitors and may constitute a security risk;
- To have equipment on a silent setting so that all patients can expect a peaceful environment, as constant interruptions from ringing telephones have a potentially anti-therapeutic effect;
- Not to lend equipment to other patients.
- Avoid use in communal areas due to the difficulties in identifying when camera or recording functions are being used.

The above information may need to be repeated for patients who have fluctuating capacity. Other service users and visitors will need to be informed of this policy at the point of admission or on their first visit and as and when necessary/ appropriate. The terms of this policy should be displayed in the ward area to prevent the necessity for repeating this information on a regular basis. A standard poster is not available for this purpose and local services should agree their own formats in line with other information available on the wards.

If a patient asks to make a recording, or a patient is found to be recording, please also refer to guidance set out in the Information Governance Staff Handbook.

Permission is to be requested by the patient who wishes to charge their mobile device using a charging cable. In deciding whether or not to grant permission, the clinical team must undertake an appropriate risk assessment.

Charging of mobile devices should be limited to a designated area as decided by the Ward Manager or Inpatient Services Manager but this will be risk assessed on an individual basis. Patients who can use their chargers should be asked to return the charger to the ward staff when not in use, to avoid other patients who have not been risk assessed, from accessing the charger.

A full and comprehensive risk assessment needs to take place in respect to the inpatient who has access to a mobile phone and particular the charger for 2 reasons: -

- The equipment may not have been Portable Appliance Tested and could present a fire safety risk; and
- The charger could be used as a potential ligature.

All in-patient units should have a designated public telephone, which, should be sited in an area that promotes and protects privacy as far as is reasonably practicable. Installation of booths or hoods is considered to be best practice for wards.

The use of mobile phones or other mobile devices may be limited to one area of the ward to avoid the potential for intrusion and disturbance of other inpatients. It may also be reasonable to request mobile phones or other mobile devices are switched off when not in this area. Where the wards are limited by space this may need to be considered by the Inpatient Services Manager and alternatives put in place. Wards may decide to implement local procedures that mobile phones / devices may be used across the ward as long as this does not cause disruption for other service users or staff. However, communal areas should not be encouraged for making and receiving calls.

It is acknowledged that patients may also access the internet or social media via their mobile telephones or tablet and this should be included in the risk assessment for each patient.

6. BREACH OF RESTRICTIONS

- Service users found to be in breach of the restrictions in sections 4 and 5 of this policy may have their equipment confiscated and placed in storage until a clinical review of the breach has taken place.
- The Patient Property protocol must be followed if the service user equipment is removed; they must be given a receipt and the responsible staff member should retain a receipt and a record of phones handed in.
- If staff are aware of any recording by equipment contrary to this policy they should speak with the patient who owns the equipment and any others involved in the recording and also refer to guidance set out in the Information Governance Staff Handbook.
- If following this discussion there are any concerns about the consent or capacity of individuals involved in the recording a request should be made to the patient to delete the recording and consideration given to confiscating the phone and/or mobile device. An incident form must be completed detailing all breaches contained in this policy.
- Visitors in breach of this policy will be asked to delete any such recordings improperly obtained and asked not to use their phone for the duration of their visit. Visitors may be asked to leave the Trust premises for failing to comply with the restrictions embodied herein.
- An entry of all breaches should be recorded in the appropriate case notes relating to the service user concerned. Any decision to prevent the use of or confiscate a mobile phone or device should be subject to a periodic review.

7. PERSONS DETAINED UNDER THE MENTAL HEALTH ACT 1983

- Persons detained under the Mental Health Act have the same rights as informal persons to having contact with family and friends under Article 8 European Convention on Human Rights, namely the right to private life. As such telephone and other mobile computing facilities need to be readily accessible.
- The Mental Health Act Code of Practice, 2015 Chapter 8 – Privacy, Safety & Dignity which deals with detained patients access to telephones and other mobile computing devices (including access to the Internet and social media) recognises that hospital managers have implied powers over detained individuals rights to their access and use and it may therefore be permissible in individual risk assessed circumstances to restrict the use of mobile phones and other devices in clinical areas provided there are reasonable clinical grounds for doing so. However, the principle that should underpin hospital or ward policies on all telephone use is that detained patients are not free to leave the premises but that their freedom to communicate with family and friends should be maintained as far as possible and restricted to the minimum extent necessary.
- Restrictions need to be a proportionate response, pursuing a legitimate aim of protecting the health and safety of the patient and/or others. Alternative options must be considered and valid reasons for restrictions demonstrated in the patients notes.

- The clinical team may therefore restrict the use of a mobile phone or other device of patients who are deemed not to have the capacity to manage the identified risk for the duration that that risk exists. This should be clearly outlined within their care plan and be reviewed at least weekly during the clinical team review.
- If a patient asks to make a recording, or a patient is found to be recording, please also refer to guidance set out in the Information Governance Staff Handbook.
- Risks include the use of telephones accessing inappropriate numbers or receiving inappropriate telephone calls placing themselves and/or others at risk, in terms of abuse, emotional distress, or the use of numbers to high cost lines, to safeguard the service user.

8. COMMUNICATION

The information within this policy should be given to services users and visitors.

Inpatient areas should particularly consider how the information in this policy should be provided to patients upon admission.

The information within the policy should be displayed in ward areas.

9. INVOLVEMENT OF OTHER AGENCIES

At times the use of a mobile phone or other mobile device may result in the possibility of criminal or civil charges being brought against a service user or may require the notification of other agencies such as the Public Guardianship Office.

Although the circumstances of each situation will need an individual response the following considerations should be observed:

The patient's consultant or any other practitioner (i.e. named nurse) concerned with the patient's care and treatment and who is competent in undertaking an assessment of capacity in their professional role should provide a statement in the patient's notes as to the capacity of the patient to understand the effect of their actions.

An example of this would be where a patient is placing abusive telephone calls the consultant/practitioner should state whether in their opinion this is as a result of their mental state or whether they have capacity to understand their actions and the likelihood of criminal prosecution.

This statement from the consultant should enable a care plan to be developed in response to the situation by the clinical team. This may include police involvement or the removal of the telephone.

Further guidance in individual situations should be sought from the MHA Office.

10. LOSS AND DAMAGE

The Trust will not accept responsibility or liability for loss or damage to personal mobile phones belonging to people who use services or visitors, unless it has been lost or damaged after confiscation, and where a receipt has been produced.

The Trust will not accept responsibility or liability for telephone bills resulting from the abuse of mobile phone calling including but not restricted to chat lines or premium rate telephone numbers.

11. EQUALITY IMPACT ANALYSIS

As part of its development, this document was analysed to consider / challenge and address any detrimental impact the policy may have on individuals and or groups protected by the Equality Act 2010. This analysis has been undertaken and recorded using the Trust's analysis tool, and appropriate measures will be taken to remove barriers and advance equality of opportunity in the delivery of this policy / procedure

12. FREEDOM OF INFORMATION EXEMPTION ASSESSMENT

Under the Freedom of Information Act (2000) we are obliged to publish our policies on the Trust's website, unless an exemption from disclosure applies. As part of its development, this policy was assessed to establish if it was suitable for publication under this legislation. The assessment aims to establish if disclosure of the policy could cause prejudice or harm to the Trust, or its staff, patients, or partners. This assessment has been undertaken using the Trust's Freedom of Information Exemption Guide, and will be reviewed upon each policy review.

13. INFORMATION GOVERNANCE ASSESSMENT

This Policy has been analysed to ensure it is compliant with relevant information law and standards as in place at the time of approval, and are consistent with the Trust's interpretation and implementation of information governance components such as data protection, confidentiality, consent, information risk, and records management.

Compliance will be reviewed against any changes to legislation / standards or at the next review of this document.

14. SAFEGUARDING

All staff have a responsibility to promote the welfare of any child, young person or vulnerable adult they come into contact with and in cases where there are safeguarding concerns, to act upon them and protect the individual from harm.

All staff should refer any safeguarding issues to their manager and escalate accordingly in line with the Trust Safeguarding Families Policy and Local Safeguarding Children/Adult Board processes.

15. MONITORING

The effective application of this policy / guideline, including adherence to any standards identified within will be subject to monitoring using an appropriate methodology and design, such as clinical audit.

Monitoring will take place on a biannual basis and will be reportable to the Quality Group via the Clinical Effectiveness and Quality Improvement Team.

16. REVIEW

This policy / guideline will be reviewed three-yearly unless there is a need to do so prior to this; e.g. change in national guidance.

17. REFERENCES

- Using Mobile Phones in NHS Hospital, Department of Health, January 2009
- Code of Practice to the Mental Health Act 1983, Department of Health, 2015