

Joint-working Protocol for the assessment of children and young people under the Mental Health Act 1983

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1. Introduction

This is a joint-working Protocol for the assessment of children and young people under the [Mental Health Act 1983](#) for staff in Children and Families Teams, EDT and Approved Mental Health Professionals (AMHPs) working in Mental Health.

The objective of this protocol is to set out best practice guidelines for inter-agency working when assessing children and young people under the Mental Health Act (MHA) in order that the interests of children and young people and their carers, remain paramount in the process. This also includes guidance on contacting the 'nearest relative' (NR) of children or young people who are looked after by the local authority.

Everyone who works with children has a responsibility for keeping them safe and to take prompt action if welfare needs or safeguarding concerns are identified ([MHA Code of Practice, 19.5](#))

1.1 Agencies involved

- Warwickshire County Council children's services;
- Approved Mental Health Professionals (AMHPs) acting independently but on behalf of the local authority;
- Coventry and Warwickshire Partnership Trust.

1.2 Relevant legislation and code of practices

- [Mental Health Act 1983 \(as amended by the Mental Health Act 2007\)](#)
- [MHA Code of Practice](#)
- [The Reference Guide to the MHA \(published 2015\)](#)
- [Mental Capacity Act 2005](#)
- [The Children Act 1989](#)

2. Roles and Responsibilities

2.1 Responsibilities of the Approved Mental Health Professional (AMHP) before a Mental Health Act Assessment

2.1.1 Once an AMHP has received a referral to assess a child or young person under the MHA they should do the following prior to commencing any assessment:

- Check on Carenotes whether the child or young person is or has been known to Children and Adolescents Mental Health Services (CAMHS);

- Check on Mosaic whether the child or young person is or has been known to any children's team. If unable to access Mosaic the AMHP should contact the [Multi Agency Safeguarding Hub \(MASH\)](#) on 01926 414144 or, if known, the children's duty worker in the relevant team for this information (these teams can be contacted via [Warwickshire County Council Customer Service Centre](#) on 01926 410410. Out of hours the AMHP should contact the [Emergency Duty Team \(EDT\) on 01926 886922](#);
- If the child or young person is known to either CAMHS or children's services then the AMHP should contact that team/worker to inform them of the referral, gather information and, if appropriate, request the worker's presence at the assessment. If this occurs out of hours, this information will be provided by EDT who will also attend the assessment, or provide follow-up afterwards, where appropriate and resources allow for it to be prioritized;
- The AMHP should employ their best efforts to identify those who have parental responsibility, and who, under the MHA would be the 'nearest relative' ([MHA CoP, 19.74](#)). A person with parental responsibility may be able to consent to the treatment on behalf of a young person ([see MHA CoP, pp181-185 for further information](#));
- The AMHP should always consult with the child or young person's NR and/or any person with parental responsibility before starting their assessment to both gather relevant information and also find out if the NR, or another appropriate family member or friend, can be present if the child or young person so wishes. This is in accordance with paragraph 14.53 of the Code of Practice which states:

'If a patient wants someone else (e.g. a familiar person or an advocate) to be present during the assessment and any subsequent action that may be taken, then ordinarily AMHPs should assist in securing that person's attendance, unless the urgency of the case makes it inappropriate to do so.'
- Although the urgency of an assessment may mean that this is not always possible having someone else present should always be discussed with the child or young person and any requests accommodated where possible.
- The AMHP should request the attendance of a CAMHS doctor when assessing any child or young person under the MHA. Out of hours, this

will be the CAMHS on-call consultant who can be contacted [via St Michael's Hospital \(01926 406789\)](#). This is in accordance with paragraph 19.73 of the Code of Practice which states:

'At least one of the people involved in assessing whether a child or young person should be admitted to hospital, and if so whether they should be detained under the MHA (i.e. one of the two medical practitioners or the AMHP), should be a CAMHS professional.'

2.2 Note regarding children or young people in the care of the local authority (MHA s27)

- 2.2.1 Where the patient who is a child or young person is in the care of a local authority by virtue of a care order within the meaning of the Children Act 1989 the authority shall be deemed to be the nearest relative of the patient in preference to any person except the patient's husband or wife [or civil partner]. This responsibility falls to the Director of Children's Services delegate, who is the relevant service manager. Out of hours the AMHP should contact EDT for guidance.
- 2.2.2 Different rules regarding the NR apply to children and young people subject to guardianship or those subject to a residence order under the Children Act 1989. (AMHP's should refer to p26-27 of the Reference Guide to the MHA and/or discuss with children services' colleagues).

2.3 Children Act or MHA?

- 2.3.1 Although the Children Act does provide authority in certain circumstances to detain a child, it provides no authority to enforce assessment or treatment. The key question is the purpose of the intervention. If assessment and treatment for a mental disorder is the main purpose of the intervention, then admission to hospital under the provisions of the MHA is appropriate. However, if the child does not need hospital admission for assessment or treatment, then the AMHP should liaise with children's services (or EDT out of hours) for guidance and advice on other possible interventions (see MHA Code of Practice for further information). Information provided by the AMHP may help inform any current or future child in need planning.

2.4 Responsibilities of the Approved Mental Health Professional (AMHP) after the assessment

- 2.4.1 Prior to the conclusion of the MHA assessment the AMHP should liaise with any relevant agency or worker to either inform them of any admission or proposed plan. This will ensure that anyone involved in the child or young person's care is in agreement with providing input or follow-up, especially if they were unable to be present at the assessment or involved in these discussions.
- 2.4.2 Where practitioners conclude that admission to hospital is not the appropriate course of action, but that the child or young person is a child in need, consideration must be given to alternative means of care and support that will meet the needs of the child or young person. The appropriate action will usually be to refer the child or young person's case to the relevant local authority children's services team, in accordance with local protocols for interagency working to safeguard and promote the welfare of children and young people (MHA, CoP, para 19.18).
- 2.4.3 In cases where admission to hospital under the MHA is not appropriate, but the child or young person meets the specific criteria for a Secure Accommodation Order application, then their accommodation under section 25 of the Children Act 1989 may be required (MHA, CoP, para 19.19). This will be a matter for the local authority children's services to consider in the light of the provisions of section 25 of the Children Act 1989, and relevant [Children Act 1989 guidance](#). The criteria and grounds for such an order are clearly set out in the Children Act.
- 2.4.4 In cases where neither hospital admission nor a secure accommodation application is appropriate then alternative accommodation options will be explored by the children's team. If there are restrictions placed on the accommodation necessary to keep the young person safe; deprivation of liberty safeguards need to be considered.
- 2.4.5 In cases where the child or young person is detained under the provisions of the Mental Health Act then the AMHP should ensure both the person and their 'nearest relative' have been given their rights. This should include providing printed information on the rights of the 'nearest relative' to supplement any verbal information provided.

2.5 Responsibilities of the children's team worker

- 2.5.1 If the child or young person being assessed under the MHA is an open case then the allocated worker or delegated duty worker should attend and support the Mental Health Assessment.
- 2.5.2 If not an open case then information will be gathered by the AMHP via the MASH. If appropriate the worker from the MASH will refer to the children's team. The MASH will inform the AMHP when this has been completed and request that the children's team make contact with the AMHP to discuss a joint single assessment of need and MHA assessment.
- 2.5.3 Out of hours information gathering by the AMHP will be made via EDT and they will also be invited to attend the assessment where possible. If EDT cannot attend they will be available following the assessment to discuss the outcome of the assessment, any identified needs and be satisfied that the child or young person's needs are appropriately supported.
- 2.5.4 Local authorities should ensure that they arrange for visits to be made to:
- Children and young people looked after by them who are in hospital, whether or not they are under a care order, and
 - Children and young people accommodated or intended to be accommodated for three months or more by NHS-funded providers. Such visits must be undertaken in accordance with the relevant regulations.
- 2.5.5. As per paragraph 19.122 of the MHA CoP, local authorities should consider whether it would be appropriate to provide financial support to enable families to visit children and young people placed in hospital, taking into account their duties to promote contact between children and young people and their families. Such duties arise when children and young people are being looked after by local authorities as well as when they are accommodated in hospital for three months or more. The provision of financial support to cover the travel costs of visiting might be essential for some families on low incomes, especially if their child has been placed out of area (see paragraphs 8A and 16 of schedule 2 of the Children Act 1989).
- 2.5.6. **Where there is any dispute about the need for joint assessment, the matter should be escalated to operation managers or service manager for swift resolution.**

3. Further Information

Principles of assessing Children and Young People (MHA CoP, para 19.5)

The child or young person's views, wishes and feelings should always be sought, their views taken seriously and professionals should work with them collaboratively in deciding on how to support that child or young person's needs.

Any intervention in the life of a child or young person that is considered necessary by reason of their mental disorder should be the least restrictive option and the least likely to expose them to the risk of any stigmatisation, consistent with effective care and treatment, and it should also result in the least possible separation from family, carers, friends and community or interruption of their education.

Further Information

For further information on assessing children and young people under the Mental Health Act see the following:

Mental Health Act 1983: Code of Practice – Chapter 19, pages 168-205
Reference Guide to the MHA 1983 – Chapter 12, pages 132-138