MISSING SERVICE USER – JOINT POLICY AND PROCEDURES

			POLICY
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	X		
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1.0 INTRODUCTION

This policy and procedure describes the process to be adopted and the roles and responsibilities of Sherwood Forest NHS Foundation Trust and Nottinghamshire Police in the event of a Service User being missing from hospital or other healthcare setting.

The policy and procedure applies to both informal Service Users Kings Mill Hospital including Paediatrics, Maternity, Out-patients, Day Case, Mansfield Community Hospital including Out-patients, Ashfield Community Hospital, Newark Hospital including Urgent Care and Out-patients. Collectively known as Sherwood Forest Hospitals Foundation Trust (SFHFT)

This policy and procedure will also include any Mental Health patients assessed or not assessed attending any of the facilities at Sherwood Forest Hospitals, whether as an in-patient or attending clinics including Emergency Department.

A Risk assessment is to be completed on all in-patient adults who display challenging behaviour, require an unmanageable number of interventions by nursing staff or you consider increasing the level of direct observations. (Refer to SFHFT "Guidelines for Enhanced Patient's Support")

2.0 POLICY STATEMENT

The purpose of this joint policy is to promote consistency in the risk assessment, reporting and response processes of both Sherwood Forest Hospitals and Nottinghamshire Police when the Service User's whereabouts are unknown, and to ensure a more effective and efficient response to those most at risk of harming themselves or others.

Any action taken by agencies, either unilaterally or jointly must be:

- Proportionate
- Legal
- Accountable
- Necessary
- Based on the best available information and in accordance with the Human Rights Act and other legislations.

This clinical document applies to:

Staff group(s)

- All staff groups

Clinical area(s)

- All clinical areas, across all hospital sites.

Patient group(s)

- All patient groups, adults, maternity/ pregnant women.

Exclusions

- No exclusions

3.0 DEFINITIONS/ ABBREVIATIONS

Service User:	this would be defined of a patient within the trust.
Missing Person:	Anyone whose whereabouts cannot be established will be considered as missing until located and their well-being or otherwise confirmed.
DNM	Duty Nurse Manager
EAU	Emergency Assessment Unit
SPOC	Single Point of Contact

4.0 ROLES AND RESPONSIBILITIES

This joint policy is for both SFHFT and Nottinghamshire Police.
See own Organisation's Policy for Capacity and Consent.

It is the role of all staff involved in any element of care/ treatment of a missing Service User to follow and implement this policy and procedure.

5.0 APPROVAL

Following consultation this policy has been approved via the Trust Management Team.

6.0 DOCUMENT REQUIREMENTS (NARRATIVE)

6.1. Response to a Service User whose whereabouts are unknown

a) Principles

If a Service User's whereabouts become unknown, staff will initiate this policy and procedure as detailed below. In implementing it, the overriding principles are to:

- Determine clearly that the Service User is in fact missing, check with other colleagues, check immediate Service User vicinity, are clothes missing etc.
- Confirm if the Service User been identified as being at risk or vulnerable? Are they under the enhanced support guideline?
- Consider what, if any, risk his/her absence poses either to him/herself or others.
- Follow the risk assessment process contained within this agreed policy, including risk assessment and notification to Duty Nurse Manager.
- Consider what action should be taken when the Service User is located, and if/how they will be returned to hospital. (point 5.6b)

b) Hospital Staff Conduct Immediate Local Area Search / Hospital Staff Attempt to Contact the Service User (or parent/guardian should the service user be a child) by Mobile Phone / Hospital staff where appropriate to visit the Service User at home or known frequented address.

If a Service User appears to be missing, the staff member should also try to contact the Service User on their mobile phone, if applicable. In addition to this the staff member should attempt to contact any next of kin to establish the whereabouts of the Service User (See Appendix 5).

If a Service User is missing, the staff member in charge of the ward or area will need to do an initial search of the immediate area including:

- Day rooms
- Toilets
- Bathrooms
- Store rooms
- Adjoining area i.e. link ward or clinic
- Check to see if there are any keys missing
- Check to make sure all locked rooms are still secure

Where the Service User is not found to contact security to expand the search and include CCTV screening. CCTV cameras cover the main entrance doors in the Kings Treatment Centre, public lift lobby's, ward entrance lobby's, circulation corridors, Emergency Department entrance, reception and waiting area. The Duty Nurse Manager should be informed to support the rest of the protocol.

c) Hospital Staff undertake and document Risk Assessment, and seek the Duty Nurse Managers advice regarding whether or not the Police should be called (See Appendix 1 and Appendix 5).

- Does the Service User have an unstable medical condition that may require attention or medication?
- Does the Service User have a severe mental disorder?
- Is the Service User likely to cause harm to them?
- Is the Service User likely to cause harm to others?
- Is the Service User confused?
- Where the Service User's mental capacity been assessed in accordance with the Mental Capacity Act and the individual has been proven to lack capacity, have appropriate steps been taken conforming to Trust Policy for Mental Capacity assessment?
- Safeguarding Adults at risk.
- Is the service user a child under the age of 18years?
- If there is a Deprivation of Liberty? A Deprivation of Liberty is an authorisation order to be able lawfully to detain someone in hospital for care and treatment. See the Trusts Deprivation of Liberty Policy.
- If yes to any of the above the Duty Nurse Manager will support in implementing protocol as detailed below.

On establishing that the Service User's whereabouts are unknown, the staff member in charge of the ward or unit will contact the Duty Nurse Manager by telephone to:

- Contact the Mental Health Clinician.

- Review the actions already taken to attempt to locate the Service User, and consider further actions that could be taken
- Determine whether the risk presented by the absence of the Service User is **High, Medium** or **Low**. The **Risk Assessment Guidance** shown below should be referred to when deciding on the appropriate risk status to assign to the absence

(**Note:** if the Service User is detained under a Section of the Mental Health Act, this **does not** in itself indicate medium or high risk.)

d) Level of Risk and Policy Response

The level of risk should reflect the **CURRENT and ON-GOING** risk presented, given the circumstances of the disappearance or non-appearance. This will be informed by various factors, including previous 'missing' behaviours.

It should be borne in mind that any risk assessment process is on-going. Any new information or changes in circumstances may require a new review or review of current risks.

LOW RISK - Definition	Response
The risk of harm to the subject or the public is assessed as possible but minimal. **Essential criteria:** • Are the circumstances out of character? • Does the context suggest the Service User may be subject to crime or at risk of harm to themselves or another? • Persons under the age of 18 years of age should NOT be included in this classification.	**CONSIDERATIONS:** • The Service User is able to live independently without support. • The Service User is able to interact safely with an unknown environment. • The Service User does not pose a risk of violence and has no self-harming tendencies.

MEDIUM RISK - Definition	Response
The risk of harm to the subject or the public is assessed as likely but not serious. **Essential criteria:** • Are the circumstances out of character? • Does the context suggest the Service User may be subject to crime or at risk of harm to themselves or another? • The risk posed is likely to place the Service User or public in danger. • Assessment of whether the risk is serious should be compared to the home office definition of serious harm as outlined below.	**CONSIDERATIONS:** • A person who is severely depressed with self-harm tendencies who has gone missing but there are no grounds to believe they are imminently about to attempt suicide or cause serious self-harm however defined as such. • A Service User who has a history of moderate violence and whose behaviour is unpredictable. • A mental health Service User or elderly person who goes missing who is unable to interact safely with an unknown environment.

HIGH RISK - Definition	Response
The risk of serious harm to the subject or the public is assessed as very likely. **Essential criteria:** • Are the circumstances out of character? • Does the context suggest the Service User may be subject to crime or at risk of harm to themselves or another? • The risk posed is **immediate** and there are **substantial** grounds for believing that the subject is in danger through their own vulnerability; or may have been the victim of a serious crime; or the risk posed is immediate and there are substantial grounds for believing that the public is in danger.	**CONSIDERATIONS:** • It is believed that the individual has the intention of committing suicide or seriously self-harming and the risk posed is immediate. • It is believed that the individual has the intention of causing death or serious injury to another person or their behaviour is so unpredictable that other persons are at a real and immediate risk of death or serious injury. • It is suspected that the individual has been murdered, kidnapped or abducted. • Any child under the age of 18 years identified as missing is high risk and the police should be contacted.

NB: In exceptional circumstances, e.g. where an imminent threat of significant harm has been made by the Service User, it may be necessary for the Police to be called prior to the actions outlined in c being completed. This is a judgment call based on the assessment by the Duty Nurse Manager.

Any Service User under the Deprivation of Liberty Act will automatically be classified as HIGH Risk and will require automatic referral to vulnerable adults. These Service Users are by Law required to be returned back to the acute setting.
Any child under the age of 18 years identified as missing after all reasonable steps have been made to locate, as detailed in 6.1a and 6.1b and contact with parents/carers has been unsuccessful will automatically be classified as HIGH Risk. The police must be contacted in these instances without further delay. The police will then risk assesses the missing episode in accordance with their own protocols. There also needs to be consideration as to whether a referral to Children's Social Care is necessary. (see Nottinghamshire & Nottingham City Safeguarding Children Procedures 2018 - *NSCP Procedures*).

Consideration should also be given as to whether it would be appropriate to treat the incident as a Serious Incident according the Trust's Incident Reporting Policy.

In those cases where the absence of a Service User is classed as 'HIGH' risk, the decision to notify the Trust's Silver on-call Manager.

e) Hospital Staff Contact Family / Carers

If there is a risk regarding contacting Service User's representatives, then that risk assessment should be documented. It needs to be clearly explained within any assessment process the reason and rationale for a threshold being reached that will trigger the contacting of a nominated person.

If the Service User's family/carers have been contacted they must be kept informed of all actions taken by the Trust staff throughout the period during which they are missing. This is the role of the Senior Nurse / Nurse in Charge from the appropriate service area.

f) Hospital Staff to Complete the Missing Service User Document

In all cases where a Service User's whereabouts are unknown, the Senior Nurse or Duty Nurse Manager will complete the Missing Service User – Record of Events (Appendix 2), which will be retained in the Service User's file. In those instances where the Service User is reported missing to the Police (i.e. Medium (following a visit to home address by a health professional) or High risk, see 6.2 below) a **fully completed** copy of this form will be given/sent to the police officer attending to the report of the missing person.

6.2. Action to be taken once Initial Risk Status has Been Assigned

a) Low Risk Service User Located

Once the Service User is found, a decision should be made by the Service User's clinical team as to it, how and when the Service User should return to hospital. GP's and/or District Nurses need to be kept up-to-date. Refer to Section 5.6 – *Returning the Service User to Hospital.*

b) Medium Risk

If it is determined that the Service User is medium risk following discussion with the Duty Nurse Manager and their whereabouts remain unknown after the actions outlined above have been undertaken, the Service User should be reported as "missing" to the Police once the actions in Appendix 5 have been completed.

"A Joint Protocol between Nottingham City Social Care, Nottinghamshire Social Care, Health Organisations and Nottinghamshire Police regarding the response to children at risk of harm and adults at risk" outlines that the Police will only respond to adult concerns where there is a real and immediate threat to the life or limb of an adult.

Children under the age of 18 years reported as missing and assessed by the police as being medium risk will require an active and measured response by the police and other agencies in order to trace the missing child and support the person who is reporting there concern

c) High Risk

If it is determined that the Service User is high risk following discussion with the Duty Nurse Manager, and their whereabouts remain unknown after the actions outlined above have been undertaken, the Service User should be reported as "missing" to the Police.

d) Service Users on Police Bail

On rare occasions a Service User may be admitted to hospital following a period of Police detention. If the Service User in hospital goes missing then we contact the Police. Some Service Users are brought to hospital having been released on Police bail. Nottinghamshire Police have internal policy requirements regarding notifying their professional standards directorate, subject to certain conditions.

Hospital staff should inform the Police **immediately** of any incident when the whereabouts of a Service User on bail is unknown, as this may pose a risk from interference with victims of crime or witnesses to such crimes.

6.3. Police attend to take Missing Report

A police officer will be deployed to take further details and carry out their own risk assessment, based on the information provided by the Trust. The criteria they will use are described above in 5.d.

The completed '*Missing Service User – Record of Events' (*Appendix 2) will be made available to the officer attending. After having taken the report, the officer will leave personal contact details. The Police will then conduct appropriate enquiries and inform the Trust of their actions.

6.4. Use of the Media

The Police have responsibility for considering whether to inform the media about missing Service User to assist in locating an individual and to warn the public should that individual pose a significant threat.

Any decisions to seek publicity will always be made in consultation with the responsible person – (Duty Nurse Manager) identified by Sherwood Forest Hospitals. In such cases the Trust and the Police will agree who will consult with the relevant Service User's representative(s). The Police will always make the overriding decision with use of media based on the urgency of the case.

6.5. Police and Hospital Staff Agree Plan of Action

Joint decisions must be made regarding the management of the Service User once they are located and regarding if they will be safely returned to hospital.

6.6. Service User who leaves against medical advice / location known.

A Joint Protocol between Nottingham City Social Care, Nottinghamshire Social Care, Health Organizations and Nottinghamshire Police regarding the response to children at risk of harm and adults at risk" outlines that the police will only respond to adult concerns where there is a real and immediate threat to the life of an adult. If the Service User's location is known then this will be the bar that must be reached prior to consideration to contact the Police. If Police tactics or powers are not required then East Midlands Ambulance Service (EMAS) would be

the most appropriate agency to respond. EMAS have an agreement with Nottinghamshire Fire and Rescue who can provide entry to premises.

Where a child under the age of 18 years is removed by their parents/carers against medical advice the clinician responsible for the child's care episode must assess the level of risk/impact upon the child's health and wellbeing. Where there is significant impact upon the welfare of the child a referral to children's social care should be made in order to safeguarding. The police may also need to be contacted to support with the return of the child.

6.7. Returning the Service User to Hospital

Where necessary when a Service User refuses access to the relevant agency visiting them at their address it may be necessary to obtain a section 135 warrant (see procedure in Appendix 4). This may be required where patients have an acute psychiatric illness.

a) Responsibilities

Sherwood Forest Hospitals NHS Trust has responsibility for ensuring the return of Service User who have been located, or to document the reason(s) why not.

Transport to hospital will normally be by ambulance / car if the Service User has an unstable medical condition that may require attention or medication. Ambulance assistance can be requested by 999 or Police Control.

Police transport or escort will only be used in circumstances where the Service User:

i. Is violent at the time of return and the Police have a legal power to transport them without consent such as the Mental Capacity Act or Mental Health Act
ii. Is likely to be an immediate danger to themselves or the public.
iii. Is suspected of being involved in the commission of a criminal offence during the Period of absence

Police transport will **not** be used to convey people who have been sedated as they will require constant clinical supervision from a medical practitioner or a nurse.

The Police and Ambulance Service have to consider the question of consent from a Service User. It should be remembered that unless these services can point to a statutory requirement to detain and transport a Service User, the Police and Ambulance Service will refuse to provide transport if a Service User does not consent.

b) When a Service User Returns

On the Service User's return to hospital, nursing staff should complete the '*Return of Missing Service User Form*' (Appendix 3) this should be retained on the Service User's file.

If the Service User has been reported as missing, the Duty Nurse Manager of the shift should **immediately inform the Police,** other agencies, and the Service User's family members and carers of their return, if applicable.

In the event of a child missing it is essential that the police and social care (if contacted) are informed as soon as the child is located so that the necessary statutory missing procedures can be followed with the timeframes.

On his/her return to the hospital, the Service User should be reviewed by a relevant clinician.

Nursing staff should attempt to obtain any relevant information from the Service User to mitigate another missing incident including obtaining places frequented and any contact numbers of next of kin / Service User.

c) Return Interview

If the Police have been informed and are dealing with the occurrence as a missing person then once located they will conduct a return interview. (In the case of a child this has to be undertaken within 72 hours of the child's return).

i. Determine the reason why the person went missing and, in particular, if they have been subject to violence, abuse or bullying;
ii. Establish whether they have been a victim or perpetrator of crime before or while missing;
iii. Depending upon the individual case, discover where they went and by whom they may have been harboured;
iv. Obtain information which may lead to their early discovery should they disappear again;
v. Put in place any support and preventative measures to avoid such a recurrence – including referral to other agencies where there are safeguarding concerns. SHFT should also consider making referrals where appropriate and should not rely on the Police to put support and preventative measures in place.

NB: Association of Chief Police Officer guidance describes some exceptions when a return interview by a Police Officer may not be necessary – for example, if the person has been missing from a mental health inpatient setting, and a supervisor assesses that the presence of a uniformed Police Officer may aggravate the wellbeing of the Service User. In such cases, a full telephone debrief should be taken from the nurse in charge of the shift and appropriate police systems will be updated accordingly.

d) Information to be provided to the Police

When telephoning the Police to advise them that a Service User (who has been reported missing) has returned, as much information as possible should be given to the call taker about the circumstances, so that the missing report can be closed. This should include:

- The Duty Nurse Manager making the call
- Where the Service User went – address details, not just 'friend's house' etc.
- Who they were with – name, contact details, if applicable
- Any disclosures of harm suffered or crimes committed
- Any other information that the member of staff feels is relevant – e.g. general demeanour of Service User.

6.8. Frequently Missing Service Users

Service Users who are reported missing repeatedly to the Police can expose both themselves and others to risk of harm and place significant demands on policing resource. It is therefore vital that both agencies work together at an early stage to identify appropriate responses in such cases and seek to minimise these episodes.

If a Police Officer has concerns regarding a frequently missing Service User, they should liaise with the appropriate contact, as per 5.8 below, to agree responses to these episodes.

6.9. Raising Concerns

It is in the interests of Service User and staff / officers of Sherwood Forest Hospitals and Nottinghamshire Police that the processes outlined within this collaborative policy are fully adhered to. Both organisations have a responsibility to ensure that the collaborative policy is appropriately communicated to, and understood by, all necessary personnel.

Any concerns regarding non-compliance with the protocol should be raised and responded to in a timely manner. Below are the appropriate contacts to which concerns should be raised in the first instance:

Nottinghamshire Police

If the issue requires immediate resolution during an active missing person enquiry, it should be escalated to the duty Demand Management Inspector for the appropriate area.

Any other issues should be directed to the Neighbourhood Policing Inspector for the appropriate area, or for general enquiries/concerns regarding missing persons which require multi agency discussion contact:

- Senior Duty Nurse Manager or Duty Nurse Manager
  Mobile - 07525801066 or via KMH Switchboard
- EAU Ward Leader / Senior Nurse 01623 622515 X 6135 or 6081
- Emergency Department 01623 622515 x 2789
- Trust Safeguarding team 01623 622515 ext. 3357

<u>Police Demand Management Inspector mobile numbers</u>:

- North area will be (Bassetlaw/Newark and Sherwood/Oxclose/Bulwell/Jubilee)
  Mobile contact number - 07813394202
- West area will be (Mansfield/Ashfield/Beeston and Eastwood)
  Mobile contact number - 07818 416040
- South area will be (City South/County South/City Centre and Radford)
  Mobile contact number – 07977283552

7.0 MONITORING COMPLIANCE AND EFFECTIVENESS

It is expected that each organisation will respond promptly and robustly to any concerns that are raised, and that feedback will be provided in an open manner, to support learning of individuals and across organisations. Any appropriate actions that are identified should be undertaken / implemented without delay.

The policy will be monitored through quarterly multi-agency Local Operational Group meetings. These review meetings will:

- Respond to arising issues – particularly regarding frequently missing Service Users
- Assess appropriate monitoring data
- Examine multi-agency approaches and responses
- Make recommendations for improved practice

Minimum Requirement to be Monitored **(WHAT – element of compliance or effectiveness within the document will be monitored)**	**Responsible Individual** **(WHO – is going to monitor this element)**	**Process for Monitoring e.g. Audit** **(HOW – will this element be monitored (method used))**	**Frequency of Monitoring** **(WHEN – will this element be monitored (frequency/ how often))**	**Responsible Individual or Committee/ Group for Review of Results** **(WHERE – Which individual/ committee or group will this be reported to, in what format (e.g. verbal, formal report etc.) and by who)**
Process, initiation and completion of Appendix 2 & 3	Claire Charles, Richard Clarkson	Observing the form/ retrospective case note review	Annual	Nursing, Midwifery and AHP Committee
Incidents related to missing Service Users	Claire Charles, Richard Clarkson	Review of Datix	6 monthly	Nursing, Midwifery and AHP Committee

8.0 TRAINING AND IMPLEMENTATION

Training on the collaborative policy and procedure for the Missing Service User will be undertaken jointly by the Lead DNM and Richard Boam / Anthony Horsnall, Sergeant, Nottinghamshire Police to all staff throughout their training both in the classroom and 1:1 in-site visits to the department.

Newly qualified Staff Nurses undergo supervised training in practice during their induction by their Preceptors. The collaborative policy and procedure for Missing Service Users will be included as part of the Induction

The Lead DNM will also participate in the annual doctors' induction day to raise awareness of the team, the discharge processes and the 'end of life pathway'.

All other training for members of the multi-disciplinary team is undertaken by the Lead DNM by prior arrangement and this can be done formally in the Training and Development Department or 1:1 as required through monitoring and compliance results.

9.0 IMPACT ASSESSMENTS

- This document has been subject to an Equality Impact Assessment, see completed form at Appendix 6
- This document is not subject to an Environmental Impact Assessment

10.0 EVIDENCE BASE (Relevant Legislation/ National Guidance) AND RELATED SFHFT DOCUMENTS

Evidence Base:

- Mental Capacity Act (2007)
- Human Rights Act 1998
- Race Relations Act 1976
- Disability Discrimination Act 1995
- Data Protection 1998
- The Children's Act 1989/2004
- The Care Act 2004
- Children's Missing from home and care joint procedures; interagency practice guidance 2018

Related SFHFT Documents:

- Enhanced Patient Observations Guideline (for adult in-patients)
- Incident Reporting Policy
- MAPPA Policy – for assessing the risk from individuals subject to MAPPA who present to the Trust
- Mental Capacity Act (MCA) Policy
- Safeguarding Adults Policy
- Safeguarding Children and Young People Policy

Related External Documents

- Joint Protocol between Nottingham City Social Care, Health Organisations and Nottinghamshire Police regarding the response to Children at Risk of Harm and Adults at risk.

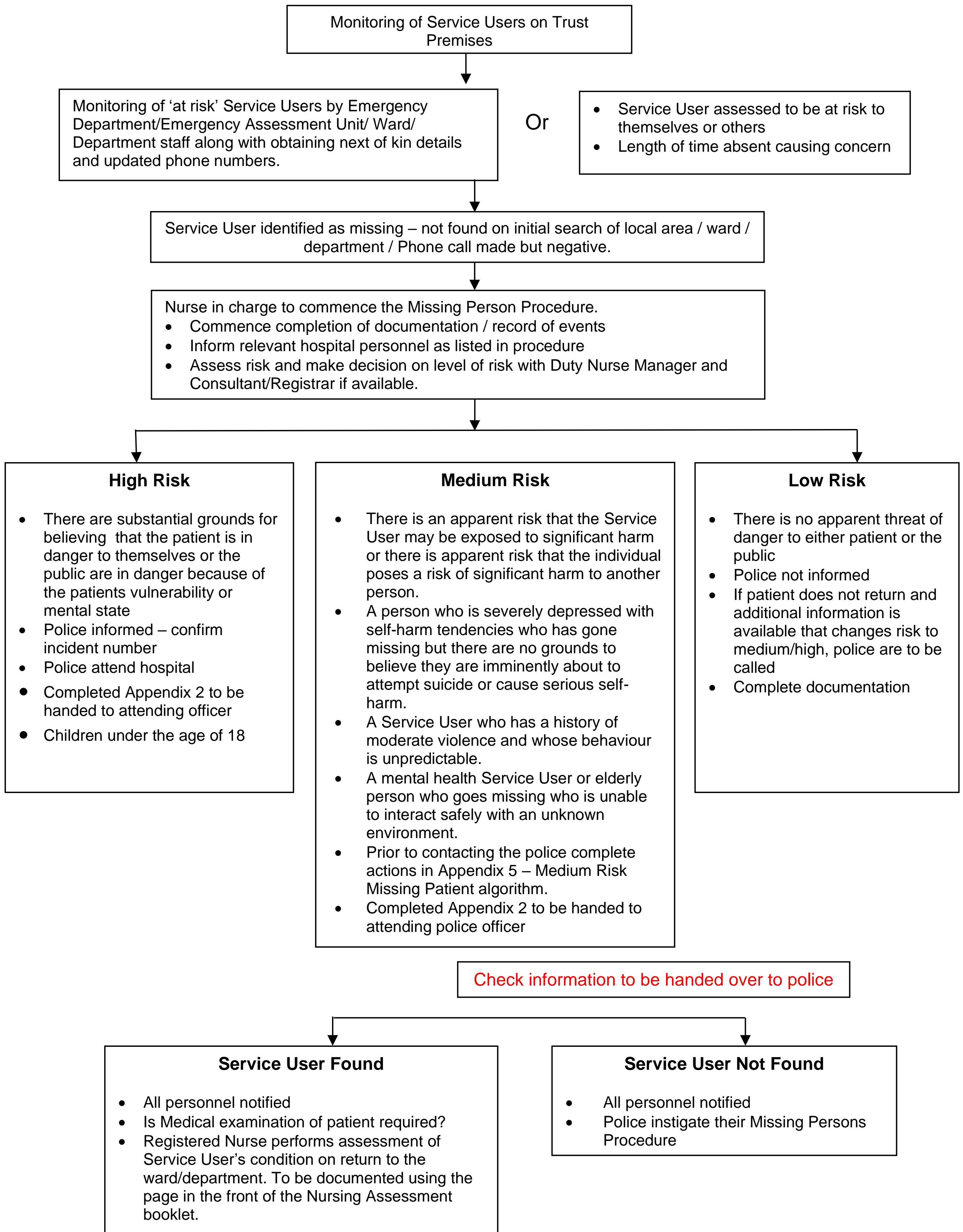
11.0 KEYWORDS

MISPER; person; patient; abscond; absconded; absence; AWOL; risk status; police;

12.0 APPENDICES

Appendices
Appendix 1 - Missing Service User Algorithm
Appendix 2 - Missing – record of events (Hyperlinked to intranet)
Appendix 3 - Return of Missing Service User Form (Hyperlinked to intranet)
Appendix 4 - Procedure for the application and execution of warrants issued under Section 135 (2)
Appendix 5 - Medium Risk Missing Service User Algorithm
Appendix 6 – Equality Impact Assessment

Appendix 1: **MISSING SERVICE USER ALGORITHM**



APPENDIX 4: PROCEDURES FOR THE APPLICATION AND EXECUTION OF WARRANTS ISSUED UNDER SECTION 135 (2)

1. Police Powers of Entry onto Private Premises

1.1 Forced entry to private premises can be affected if authorised by either Statue or Common Law.

1.2 The Police, in appropriate circumstances may forcibly enter a property without a warrant to arrest. For example:

- A person suspected of an offence (Section 17 (1)(b) PACE 1984)
- For the purpose of saving a life or limb or preventing serious damage to property (PACE: S17 (1)(e))
- For the purpose of recapturing a person who is unlawfully at large and whom the officer is pursuing (PACE: S17 (1)(d))
- NB: The House of Lords in D'Souza v Director of Public Prosecutions (1992) held that the pursuit must be almost contemporaneous with the entry of the premises. It is not enough for the Police, having formed the intention to arrest, to attend the premises.
- To prevent a breach of the peace occurring, if the officer reasonably believes that an imminent breach is likely. There is no requirement that the breach be serious (McLeod v Commissioner of Police (1994).

1.3 The use of criminal law provisions to affect a forced entry to private premises should not be considered unless there is an immediate need to prevent serious harm.

2. Basis for an Application

2.1 Section 135(2) provides for a Police constable and / or any other person authorised by the Mental Health Act to make an application to a Magistrate for the issue of a warrant in respect of a person who is currently liable to be detained i.e. still subject to Section 2, 3, or 37 and who is Absent without Leave from a hospital or registered nursing home (S18 Mental Health Act 1983).

2.2 The Justice of Peace needs to be satisfied on information laid on oath by any constable or other authorised person that:

- there is reasonable cause to believe that the Service User is to be found on premises within the jurisdiction of the justice; and
- Admission to the premises has been refused or that a refusal of such admission is apprehended.

2.3 The Justice may then issue a warrant authorising a Police Constable and /or authorised persons to enter the premises, if need by force and to remove the Service User.(S135(2)(b).

3. Applying for a warrant

3.1 NB: Warrants issued under S135 (1) are subject to the general warrant requirements set out in subsections 16 - 16 of the Police and Criminal Evidence Act.

3.2 It has been queried whether in view of the Human Rights Act 1998, formal notice should be given to a client of the intention to make an ex-parte application for a warrant under S135(1) or (2) in order not to contravene their right to a fair trial. Concerns have been expressed that any notice e of intention to apply for a warrant might be counterproductive, as the individual may abscond, demonstrate more disturbed behaviour, or put themselves or other at further risk.

3.3 Legal advice suggest that the S135 powers can be categorised as emergency powers in relation to which the European Court sets a somewhat lower standard in enforcing Convention requirements.

3.4 However the Local Authority/ Trust need to explicitly consider in each case whether any interference with the person's rights is justified and subsequently whether to give notice.

3.5 If a court can be satisfied that in the particular circumstances, the applicant has thought through and balanced the various factors and decided that notice should not be given and can explain that decision, then it is unlikely that the court would override that decision.

3.6 Any decision to interfere with a convention right needs to be carefully documented.

3.7 An application for a warrant may be made by:

- A Police Constable
- Any other person who is authorised under this Act to retake Service Users: i.e.:
  - Any other officer on the staff of the hospital
  - Any Approved Social Worker
  - Any person authorised by the Hospital Managers

(Or in the case of a Service User subject to Guardianship, any officer on the staff of a local social services authority).

3.8 The Police Service will not be expected to make warrant applications. This responsibility will normally lie with either the Mental Health Act Administrator or the Service Manager with responsibility for the ward or another member of Trust staff with delegated responsibility. Only in exceptional circumstances should an ASW be asked to act as applicant.

3.9 Within office hours the Mental Health Act Administrator should liaise with the Court Office of the Magistrates Court serving the petty sessions area in which the relevant address is located. Out of Hours a list of Justice of Peace contact numbers is available via the Police Control room.

3.10 The application for the warrant may be made ex-parte and the information to support it must be in writing (Section 15(3) PACE.

3.11 The Mental Health Act Administrator/ Service Manager will be asked by the Magistrate to provide proof of their professional identity, answer questions and / provide supplementary information, either on oath or consequent on affirmation.

3.12 In order to protect individual confidentiality an ASW may ask the Clerk to the Justices to temporarily clear the court whilst the application takes place.

3.13 The warrant should identify, as far as is practicable the person to be sought (S15 (6) PACE). However the procedure may still be invoked even if the name of the mentally disordered person is not known (S135 (5)). In these circumstances the phrase '1 female / 1 male: name currently unknown' should be used. Although the warrant need not name the individual it must clearly specify the premises to which it relates.

3.14 The warrant should specify the name of the person who applies for the warrant, the date of which it is issued and the fact that it was issued under the Mental Health Act 1983 (Section 15(6) PACE).

4. Procedure for Seeking Police Assistance in Executing the Warrant

4.1 Requests for Police assistance will fall into two categories;

- **Pre-planned Request** - where Police assistance is required with more than 24 hours' notice and
- **Urgent Request** - where Police assistance is required with less than 24 hours noted.

NB: Weekends and Public Holidays should be excluded when calculating the 24 hours' notice.

5. Executing the Warrant

5.1 In executing the warrant, a Police Constable may be accompanied by a registered medical practitioner or any other person such as a Hospital Officer or ASW who is authorised to take or retake the Service User. Any Police Officer can assist in the execution. The Hospital Officer in attendance need not necessarily be the Hospital Officer who initially applied for the warrant.

5.2 When forced entry is required the means of entry and method of ensuring safety will be at the discretion of the Police, following consultation with the Hospital Officer.

5.3 The warrant will authorise an entry on one occasion only (Section 15(5) PACE).

5.4 Entry and search under the warrant must be within one calendar month from the date of its issues (S16 (3) PACE). It must also take place at a reasonable hour unless it appears to the Constable executing the warrant that the purpose of the search may be frustrated on an entry at a reasonable hour (S16 (4) PACE).

5.5 The occupier of the premises is present at the time, when the Constable seeks to execute the warrant the Constable should:

- Identify him / herself,
- Produce the warrant,
- Supply occupier with a copy of the warrant.

5.6 If the occupier is not present but some other person who appears to the Constable to be in charge of the premises is present, the above procedure should be followed in respect of that person S16 (5-7) PACE).

5.7 If there is no person present who appears to be in charge of the premises, the Police Constable should leave a copy of the warrant in a prominent position.

5.8 Any search that takes place may only be to the extent required for the purpose of the warrant (S16 (8) PACE).

5.9 The role of the Police Constable is to gain entry to the premises, by force if necessary and to assist the persons authorised to retake the person under S18 to exercise this power and remove the Service User to the place where he / she is required to reside, under the terms of his / her detention.

5.10 The Police Constable executing the warrant must endorse it stating whether the person sought was found (Section 16 (9) PACE).

6. De-briefing

6.1 Following conclusion of the incident a short debriefing should take place between the ASW and the Police attending the address to discuss any problems or suggestions for improvements to the protocol. Details of the incident including the risk assessment and any action should be recorded on the Police system, even in cases where no violence has occurred. The fact that police attended means that there was a perceived risk of harm to self or others and has potential implications for future safety.

7. Return of Warrants

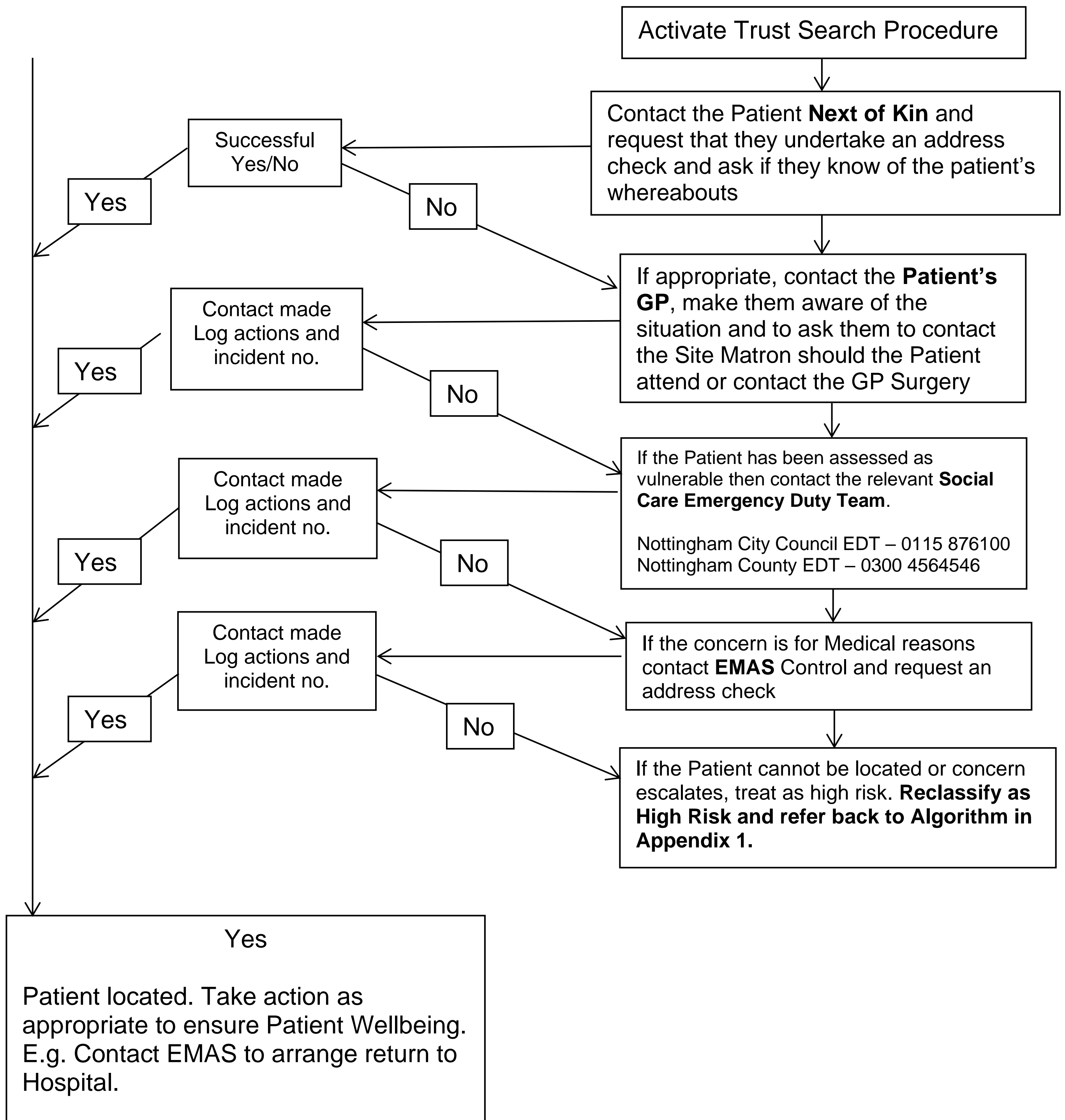
7.1 The Mental Health Act Administrator / Hospital Officer will be responsible for the return to the Clerk to the Justices (for the petty sessions area in which the issuing Justice of the Peace acts) of any warrant which has been executed, or which has not been executed within the time authorised for its execution.

7.2 The returned warrants will be retained for a period of 12 months during which time the occupier of the premises to which the warrant relates will be allowed to inspect it.

7.3 The Hospital Officer should place a copy of the warrant on the Service User's medical file and a copy should be retained by the Mental Health Act Administrator who will aggregate the information and provide regular statistical feedback on usage of this provision.

7.4 The Officer in Charge (OIC) will complete an entry on MEMEX (the Force intelligence system) to record the execution of the warrant.

APPENDIX 5: MEDIUM RISK MISSING PATIENT ACTION ALGORITHM



Yes

Patient located. Take action as appropriate to ensure Patient Wellbeing. E.g. Contact EMAS to arrange return to Hospital.

APPENDIX 6 – EQUALITY IMPACT ASSESSMENT FORM (EQIA)

<table>
<tr><td colspan="4">Name of service/policy/procedure being reviewed: Missing Service User Joint Policy and Procedure</td></tr>
<tr><td colspan="4">New or existing service/policy/procedure: Existing</td></tr>
<tr><td colspan="4">Date of Assessment: April 2023</td></tr>
<tr><td colspan="4">For the service/policy/procedure and its implementation answer the questions a – c below against each characteristic (if relevant consider breaking the policy or implementation down into areas)</td></tr>
<tr><td>Protected Characteristic</td><td>a) Using data and supporting information, what issues, needs or barriers could the protected characteristic groups' experience? For example, are there any known health inequality or access issues to consider?</td><td>b) What is already in place in the policy or its implementation to address any inequalities or barriers to access including under representation at clinics, screening?</td><td>c) Please state any barriers that still need to be addressed and any proposed actions to eliminate inequality</td></tr>
<tr><td colspan="4">The area of policy or its implementation being assessed:</td></tr>
<tr><td>Race and Ethnicity</td><td>None</td><td>None</td><td>None</td></tr>
<tr><td>Gender</td><td>None</td><td>None</td><td>None</td></tr>
<tr><td>Age</td><td>None</td><td>None</td><td>None</td></tr>
<tr><td>Religion</td><td>None</td><td>None</td><td>None</td></tr>
<tr><td>Disability</td><td>None</td><td>None</td><td>None</td></tr>
<tr><td>Sexuality</td><td>None</td><td>None</td><td>None</td></tr>
<tr><td>Pregnancy and Maternity</td><td>None</td><td>None</td><td>None</td></tr>
<tr><td>Gender Reassignment</td><td>None</td><td>None</td><td>None</td></tr>
<tr><td>Marriage and Civil Partnership</td><td>None</td><td>None</td><td>None</td></tr>
</table>

Socio-Economic Factors (i.e. living in a poorer neighbourhood / social deprivation)	None	None	None

What consultation with protected characteristic groups including patient groups have you carried out?

- **Staff and Public bodies.**

What data or information did you use in support of this EqIA?

- **Within the Policy**

As far as you are aware are there any Human Rights issues be taken into account such as arising from surveys, questionnaires, comments, concerns, complaints or compliments?

- **Non Known**

Level of impact

From the information provided above and following EQIA guidance document Guidance on how to complete an EIA (click here), please indicate the perceived level of impact:

Low Level of Impact

Name of Responsible Person undertaking this assessment: Claire Charles

Signature:

Date: April 2023