

NATIONAL HEALTH SERVICE, ENGLAND

NATIONAL HEALTH SERVICE ACT 2006

Mental Health Act 1983 Approved Clinician (General) Directions 2008

The Secretary of State for Health gives the following directions in exercise of the powers conferred by sections 7, 8 and 273 of the National Health Service Act 2006(a).

PART 1

Application, etc.

Application, commencement and interpretation

- 1.—(1) These Directions apply to Strategic Health Authorities.
- (2) These Directions apply in relation to England.
- (3) These Directions shall come into force on 3rd November 2008.
- (4) In these Directions—
 - “the 1983 Act” means the Mental Health Act 1983(b);
 - “the 2006 Act” means the National Health Service Act 2006;
 - “approve” and “approval” include “re-approve” and “re-approval”;
 - “approved clinician” has the meaning given by section 145(1) of the 1983 Act;
 - “approving Authority” means the Authority that has approved the person to act as an approved clinician;
 - “Authority” means a Strategic Health Authority continued in existence or established under section 13 of the 2006 Act;
 - “medical treatment” has the meaning given by section 145 of the 1983 Act;
 - “mental disorder” has the meaning given by section 1(2) of the 1983 Act;
 - “period of approval” means the period of time for which the approval is granted in accordance with direction 5;
 - “professional requirements” means the requirements set out at Schedule 1 to these Directions;
 - “relevant competencies” means the skills set out at Schedule 2 to these Directions;
 - “responsible clinician” has the meaning given by section 34(1) of the 1983 Act;
 - “responsible medical officer” means a person as defined in section 34(1) in relation to Part 2 of the 1983 Act and in section 55(1) in relation to Part 3 of the 1983 Act immediately before 3rd November 2008; and
 - “treatment” means medical treatment for mental disorder.

(a) 2006 c.41.
(b) 1983 c.20.

PART 2

Approvals: General

Function of approval

2. The Secretary of State directs the Authorities to exercise the function of approving persons to act as approved clinicians.

3. The function of approving persons to act as approved clinicians is a specified function that an Authority may direct a Primary Care Trust, any part of whose area falls within that Authority's area, to exercise in accordance with section 15(1) of the 2006 Act.

Approval to act as an approved clinician

4. An Authority shall only approve a person to act as an approved clinician where the Authority is satisfied that the person—

- (a) fulfils at least one of the professional requirements;
- (b) possesses the relevant competencies, and
- (c) has—
 - (i) completed a course for the initial training of approved clinicians within the previous two years, or
 - (ii) been approved, or been treated as approved, to act as an approved clinician in England or Wales within the previous five years.

Period of approval

5. An Authority may approve a person to act as an approved clinician for a period of five years commencing with the date of approval.

Conditions of approval

6. When any approval is granted under these Directions, it shall be subject to the following conditions—

- (a) the approved clinician shall undertake to cease to act as an approved clinician and to notify the approving Authority immediately if the clinician no longer meets any of the requirements set out in direction 4;
- (b) the approved clinician shall undertake to cease to act as an approved clinician and to notify the approving Authority immediately if that clinician is suspended from any of the registers or listings referred to in the professional requirements, or if any suspension ends, and
- (c) such other conditions as the approving Authority thinks appropriate.

Suspension of approval

7.—(1) If—

- (a) at any time after being approved, or
- (b) in the case of a person approved under Part 3 of these Directions, at the time of their approval or at any time thereafter,

the registration or listing of an approved clinician as required by the professional requirements is suspended, the approving Authority must suspend that clinician's approval to act as an approved clinician for as long as the approved clinician's registration or listing is suspended.

(2) Where an approved clinician's approval is suspended, that clinician may not act as an approved clinician unless and until the suspension of approval is ended by the approving Authority in accordance with paragraph (3).

(3) Where the approving Authority is notified that the suspension of the approved clinician's registration or listing has ended, the approving Authority shall, unless it is not satisfied the person possesses the relevant competencies or meets any conditions attached to their approval, end the suspension of approval.

(4) Where the suspension of approval has ended, the approval shall continue to run for any unexpired period of approval, unless the approving Authority ends it earlier in accordance with direction 8.

End of approval

8.—(1) Except where paragraph (2) applies, the approval of an approved clinician shall end at the end of the day on which their period of approval expires.

(2) The approving Authority shall end the approval of a person as an approved clinician before the expiry of the period of approval—

- (a) in accordance with a request in writing by the approved clinician to do so, or
- (b) except where direction 7 applies, if it is not satisfied that the approved clinician—
 - (i) meets any condition attached to that clinician's approval;
 - (ii) possesses the relevant competencies, or
 - (iii) fulfils at least one of the professional requirements.

(3) Where an approving Authority ends the approval of an approved clinician under paragraph (2), that Authority must immediately notify that clinician in writing of the date of the ending of approval and the reason for the ending of approval.

Records

9.—(1) The approving Authority must keep a record of each approved clinician it approves which shall include—

- (a) the clinician's name;
- (b) the clinician's profession;
- (c) the date of approval;
- (d) the conditions attached to the clinician's approval;
- (e) details of any period of suspension of approval under direction 7;
- (f) details of the completion of any training referred to in direction 4(c)(i);
- (g) details of any previous approvals referred to in direction 4(c)(ii), and
- (h) the date of and reason for the ending of the approval, if applicable.

(2) The record referred to in paragraph (1) must be retained by the approving Authority for a period of five years commencing with the day on which the clinician's approval ended.

PART 3

Transitional Arrangements

Transitional Arrangements

10. The Secretary of State directs that an Authority must approve as an approved clinician the persons referred to in this Part and that any approval under this Part is subject to directions 6 to 9.

- 11.** An Authority shall approve to act as an approved clinician a person who—
- (a) has carried out the functions of a responsible medical officer under the 1983 Act within the period of twelve months ending on 2nd November 2008, and
 - (b) is a registered medical practitioner approved by that Authority under section 12(2) of the 1983 Act.
- 12.** A person to whom direction 11 applies shall be approved to act as an approved clinician for the period of twelve months commencing on 3rd November 2008, or until the end of their period of approval under section 12(2) of the 1983 Act, whichever is later.
- 13.** An Authority shall approve to act as an approved clinician a person who—
- (a) has not carried out the functions of a responsible medical officer under the 1983 Act within the period of twelve months ending on 2nd November 2008, but
 - (b) has been in overall charge of the medical treatment for mental disorder of a person within the period of twelve months ending on 2nd November 2008, and
 - (c) is a registered medical practitioner approved by the Authority under section 12(2) of the 1983 Act.
- 14.** Where direction 13 applies—
- (a) the person shall be approved to act as an approved clinician for a period of twelve months commencing on 3rd November 2008, and that period shall be extended for a further two years if during that period of twelve months the person completes a course for the initial training of approved clinicians, and
 - (b) direction 4(c)(ii) shall not be satisfied by a person who has not completed a course for the initial training of approved clinicians within the period referred to in paragraph (a).
- 15.** An Authority shall approve to act as an approved clinician a person who—
- (a) has not carried out the functions of a responsible medical officer under the 1983 Act within the period of twelve months ending on 2nd November 2008 and has not, within that period, been in overall charge of the medical treatment for mental disorder of a person, but
 - (b) is a registered medical practitioner approved by an Authority under section 12(2) of the 1983 Act who has been appointed to the post of consultant psychiatrist in England within the period of eighteen months ending on 2nd November 2009.
- 16.** Where direction 15 applies—
- (a) the person shall be approved to act as an approved clinician until 2nd November 2009, and
 - (b) direction 4(c)(ii) shall not be satisfied by a person approved under that direction.

PART 4

Revocations

17. The Mental Health Act 1983 Approved Clinician Directions 2008 are revoked.

Signed by authority of the Secretary of State for Health

Date

Anne Richardson
Department of Health
A member of the Senior Civil Service

SCHEDULE 1

Professional Requirements

1. The professional requirements are that the person is—
 - (a) a registered medical practitioner;
 - (b) a chartered psychologist who is listed in the British Psychological Society's Register of Chartered Psychologists and who holds a relevant practising certificate issued by that Society**(a)**;
 - (c) a first level nurse, registered in Sub-Part 1 of the Nurses' Part of the Register maintained under article 5 of the Nursing and Midwifery Order 2001**(b)**, with the inclusion of an entry indicating their field of practice is mental health or learning disabilities nursing;
 - (d) an occupational therapist registered in Part 6 of the Register maintained under article 5 of the Health Professions Order 2001**(c)**; or
 - (e) a social worker, registered as such with the General Social Care Council**(d)**.

(a) The British Psychological Society is a Royal Charter body, registered as a charity in England and Wales No.229642 and is at St Andrews House, 48 Princess Road East, Leicester, LE1 7DR.

(b) S.I. 2002/253. The Register is divided into parts in accordance with the Nurses and Midwives (Parts of and Entries in the Register) Order of Council 2004 (S.I.2004/1765).

(c) S.I. 2002/254.

(d) The General Social Care Council is established under section 54(1) of the Care Standards Act 2000(c.14).

SCHEDULE 2

Relevant Competencies

1. The role of the approved clinician and responsible clinician

1.1. A comprehensive understanding of the role, legal responsibilities and key functions of the approved clinician and the responsible clinician.

2. Legal and Policy Framework

2.1. Applied knowledge of—

- (a) mental health legislation, related codes of practice and national and local policy and guidance;
- (b) other relevant legislation, codes of practice, national and local policy guidance, in particular, relevant parts of the Human Rights Act 1998(a), the Mental Capacity Act 2005(b), and the Children Acts(c), and
- (c) relevant guidance issued by the National Institute for Health and Clinical Excellence (NICE).

2.2. In the above paragraph “relevant” means relevant to the decisions likely to be taken by an approved clinician or responsible clinician.

3. Assessment

3.1. Demonstrated ability to—

- (a) identify the presence of mental disorder;
- (b) identify the severity of the disorder, and
- (c) determine whether the disorder is of a kind or degree warranting compulsory confinement.

3.2. Ability to assess all levels of clinical risk, including risks to the safety of the patient and others within an evidence-based framework for risk assessment and management.

3.3. Demonstrated ability to undertake mental health assessments incorporating biological, psychological, cultural and social perspectives.

4. Treatment

4.1. Understanding of—

- (a) mental health related treatments, i.e. physical, psychological and social interventions, and
- (b) different treatment approaches and their applicability to different patients.

4.2. Demonstrated high level of skill in determining whether a patient has capacity to consent to treatment.

4.3. Ability to formulate, review appropriately and lead on treatment for which the clinician is appropriately qualified in the context of a multi-disciplinary team.

4.4. Ability to communicate clearly the aims of the treatment, to patients, carers and the team.

5. Care Planning

(a) 1998 c.42.

(b) 2005 c.9.

(c) Children Act 1989(c.41) and Children Act 2004 (c.31).

5.1. Demonstrated ability to manage and develop care plans which combine health, social services and other resources, ideally, but not essentially, within the context of the Care Programme Approach.

6. Leadership and Multi-Disciplinary Team Working

6.1. Ability to effectively lead a multi-disciplinary team.

6.2. Ability to assimilate the (potentially diverse) views and opinions of other professionals, patients and carers, whilst maintaining an independent view.

6.3. Ability to manage and take responsibility for making decisions in complex cases without the need to refer to supervision in each individual case.

6.4. Understanding and recognition of the limits of their own skills and recognition of when to seek other professional views to inform a decision.

7. Equality and Cultural Diversity

7.1. Up-to-date knowledge and understanding of equality issues, including those concerning race, disability, sexual orientation and gender.

7.2. Ability to identify, challenge, and where possible redress discrimination and inequality in all its forms in relation to approved clinician practice.

7.3. Understanding of the need to sensitively and actively promote equality and diversity.

7.4. Understanding of how cultural factors and personal values can affect practitioners' judgements and decisions in the application of mental health legislation and policy.

8. Communication

8.1. Ability to communicate effectively with professionals, patients, carers and others, particularly in relation to decisions taken and the underlying reasons for these.

8.2. Ability to keep appropriate records and an awareness of the legal requirements with respect to record keeping.

8.3. Demonstrated understanding, and ability to manage, the competing requirements of confidentiality and effective information sharing, to the benefit of the patient and other stakeholders.

8.4. Ability to compile and complete statutory documentation and to provide written reports as required of an approved clinician.

8.5. Ability to present evidence to courts and tribunals.