

# Changes to the Mental Health Act



Positive about mental health

Sussex Partnership   
NHS Trust

# The MH Amendments 2007 change the MHA 1983 by

- Making '**Nine Key Changes**' to the existing MHA 1983 (most of the Act stays the same)
- These are accompanied by a revised **Code of Practice (CoP)**
- Introducing '**Five Guiding Principles**' which must inform every decision made under the MHA

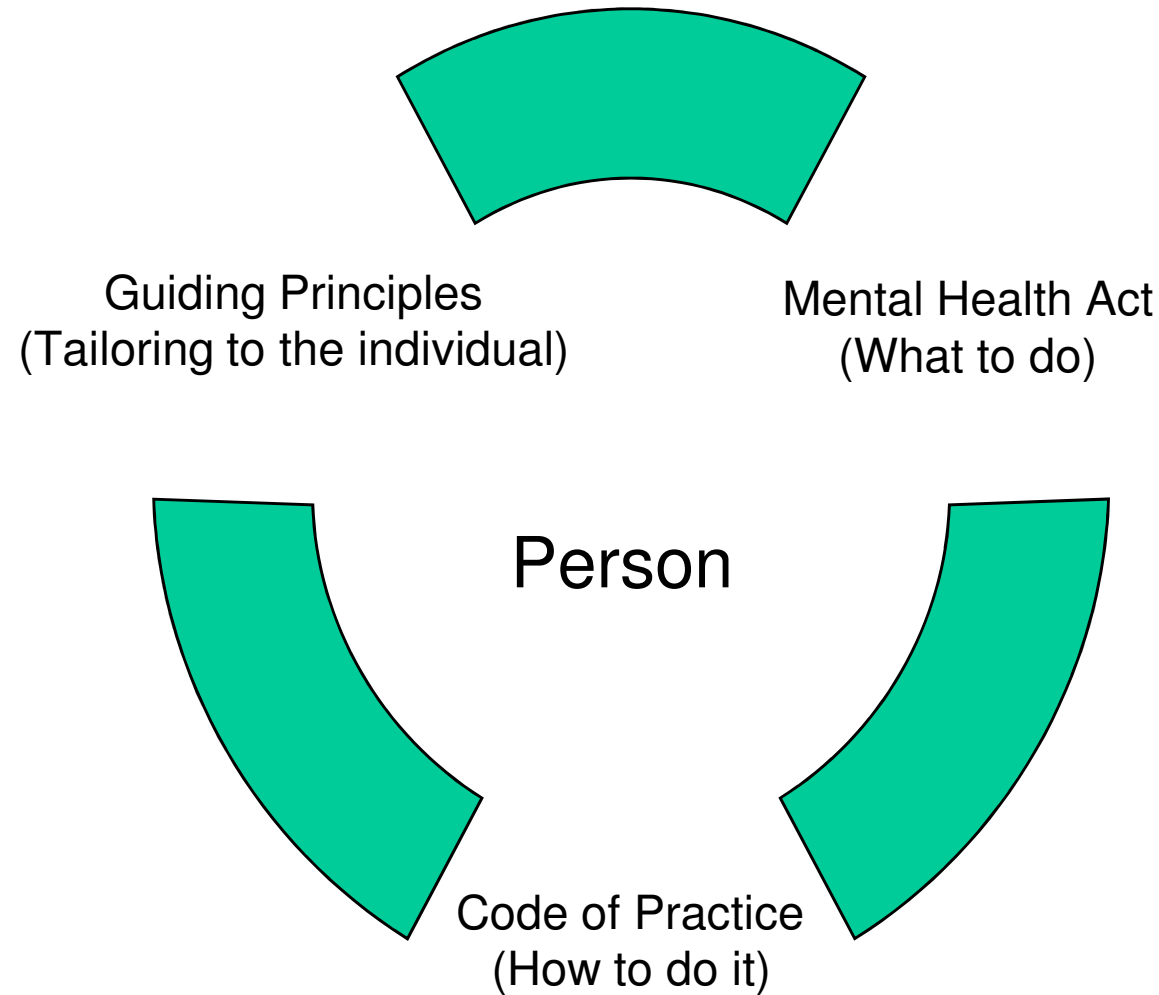
# How do the new amendments work?

Mental Health Act – tells staff **what** to do

Code of Practice – tells them **how** to do it

Guiding Principles – requirement to  
consider individual circumstances

# The 3 components in practice



# 9 Key changes - summary

1. Single definition of Mental Disorder
2. Appropriate Treatment Test
3. Two New Professional Roles
4. Right to Displace Nearest Relative
5. ECT safeguards
6. Supervised Community Treatment
7. Mental Health Review Tribunals
8. Right to Advocacy
9. Young People

# 1. Single definition of 'Mental Disorder'

- Mental disorder means:
- **any disorder or disability of mind**
- The 4 separate categories used previously (Mental disorder, Mental illness, Severe mental disorder and Psychopathic disorder) are abolished

## 2. Appropriate Treatment Test

- Treatment appropriate to the person's mental disorder and circumstances must be actually available
- 'Medical treatment' includes psychological treatment, nursing, and rehabilitation
- Applies to longer-term powers such as s3, and supervised community treatment

### **3. Two new professional roles**

#### **Approved Mental Health Professionals**

(AMHPs can be nurses, psychologists, OTs, SWs)

**Approved Clinicians** (allowing the above professionals as well as doctors to take on the role of **Responsible Clinician**)

## 4. Nearest Relative

- People who are receiving compulsory treatment can go to court to displace their nearest relative
- Civil partners now on equal terms with married couples

## 5. ECT safeguards

- A person with capacity who does not want ECT cannot be forced to have it
- A competent child or adolescent under 18 who refuses ECT cannot be made to have it
- A child under 18 cannot receive ECT without the agreement of an independent approved doctor.
- A person who lacks capacity who has made an advance refusal cannot be given ECT except in an emergency

## 6. COMMUNITY TREATMENT ORDER

- Replaces Supervised Discharge
- Known as Supervised Community Treatment (SCT)
- Only for people who have been on a treatment order (S3, unrestricted S37,47,48).
- This is suspended when you are discharged
- The team list conditions to ensure the person receives treatment, there is no harm to self or others and person attends for examination.
- Can be recalled to hospital or other NHS premises for treatment
- If the order is revoked you return to Hospital on Section 3
- There is then an automatic referral to the tribunal

## 7. Referral to Mental Health Review Tribunals (MHRT)

- Automatic referral to tribunal after 6 months if no hearing in that period (this now includes any time spent under s2)
- Then every 3 years for adults and now EVERY year for under 18 year olds
- Automatic referral to MHRT of patients who have had their CTO revoked

## **8. Advocacy service (from April 2009)**

- All patients who are subject to compulsion for longer than 72 hours have the right of access to an Independent Mental Health Advocate (IMHA)
- Advocates will help patients gain information and understanding of their situation and treatment
- Advocates will have the right to interview patients and professionals in private
- Advocates will have access to patient records where patient gives permission

## 9. Young People

- 16 -17 year olds must be treated as adults when considering admission e.g. they cannot be admitted if they object even if parents think they should be admitted.(Jan 2008).
- must be admitted to an environment suitable to their needs (2010)
- They can be admitted on to an adult ward if this is assessed as being suitable for them.

# The Guiding Principles

1. Purpose principle
2. Least restriction principle
3. Respect principle
4. Participation principle
5. Effectiveness, efficiency and equity principle

# The Guiding Principles

- Designed to guide the professional to think
  - Who?
  - How?
  - Why?
- None of the principles carry any more weight, importance or significance than any other
- All 5 principles must inform every decision made under the MHA

# Principle 1

## Purpose

- Staff must be able to explain why a certain decision has been made
- Actions and decisions must be in the best interests of the person who has been detained.

# Principle 2

## Least restrictive alternative

Any decisions that are made without the person's consent must attempt to minimise the restrictions on their liberty

# **Principle 3**

## **Respect**

Staff must have respect for a person's:

- age, race, disability, religion, culture, gender, sexual orientation.
- views, wishes and feelings whether expressed at the time or in advance

# **Principle 4**

## **Participation**

- Where practicable people should be involved in planning and developing their own care
- This involvement should also be extended to encourage carers, family members and other people who have a genuine interest for the person's welfare

# **Principle 5**

## **Effectiveness, Efficiency and Equity**

There needs to be efficient use of resources and effective and equal distribution of services .

# IMPLEMENTATION DATES

## **Jan 2008**

16 – 17 year olds consent to admission/treatment

## **April 2008**

Transfer from one Place of Safety to another

## **3rd November 2008**

The majority of the Act

## **April 2009**

Advocacy (IMHA service)

## **April 2010**

Age appropriate services

# Useful Websites

- CSIP – <http://mhact.csip.org.uk>
- DoH – [www.dh.gov.uk/mentalhealth](http://www.dh.gov.uk/mentalhealth)
- Mind (for patient information) – [www.mind.org.uk/information/factsheets](http://www.mind.org.uk/information/factsheets)

# IMPLEMENTATION in SUSSEX

**PROJECT MANAGER** Liz Hitchon

Contact Details:

[liz.hitchon@blueyonder.co.uk](mailto:liz.hitchon@blueyonder.co.uk)

or

0787 210 6656