

Mental Health Act 1983 Approved Clinician (General) Directions 2008

NHS SOUTH WEST APPROVED CLINICIAN CRITERIA

1. **INTRODUCTION**

- 1.1 Section 124 (1) of the Mental Health Act 2007 gives the definition of an Approved Clinician as “A person approved by the appropriate national authority to act as an Approved Clinician for the purposes of the Mental Health Act 1983”
- 1.2 The Directions allow Strategic Health Authorities to approve a range of registered and professionally qualified mental health professionals to act as an Approved Clinician. These are
- Registered medical practitioners with a licence to practice (doctors)
 - Registered Chartered psychologist
 - First level nurses whose field of practice is mental health or learning disabilities
 - Registered occupational therapists
 - Registered social workers.
- 1.3 Each Approval Panel consists of professionals practising in the relevant fields and considers every new application against the criteria listed below. The suitability of every applicant is considered individually with account taken of experience, training, qualifications and references. Approval is not automatic. These criteria are offered as guidance to practitioners seeking approval under the Act. The guidance includes those seeking both initial approval and re-approval.
- 1.4 This guidance applies only to Approved Clinician approval/re-approval under the Mental Health Act 2007.

2. **FUNCTIONS OF THE APPROVED CLINICIAN**

For the most part, only an Approved Clinician can be in charge of treatment given under the Act to a patient who either cannot, or will not, consent to in particular:

- Treatment without consent (and without a Second opinion appointed doctor (Second Opinion Appointed Doctor) certificate) under section 36 of the Act can only be given by or under the supervision of the Approved Clinician in charge of the treatment (whether or not the Approved Clinician is also the Responsible Clinician) – this includes treatment given under s63 because it is “immediately necessary” as defined by section 62.

There must be an Approved Clinician in charge of medication given to a detained patient who cannot or will not consent to it but which has been approved by a Second Opinion Appointed Doctor under s58.

There must be an Approved Clinician in charge of Electro Convulsive Therapy given to a detained patient who cannot consent to it but which

has been approved by a Second Opinion Appointed Doctor under the new section 58A;

- It is only the Approved Clinician in charge of the treatment who can decide under section 62 or 62A that treatment can be continued to avoid serious suffering to the patient while steps are taken to obtain a new certificate under section 58 or 58A
- Where a supervise community treatment patient who has not been recalled to hospital is unable to consent to treatment because of a lack of capacity or competence (and no one else with authority has consented on their behalf) treatment can only be given if there is an Approved Clinician in charge of treatment and it is given by or under the supervision of that Approved Clinician (part 4A of the Act)
- The Approved Clinician in charge of treatment must submit periodic reports under section 61 to the Care Quality Commission regarding medication and Electro Convulsive Therapy supported by a Second Opinion Appointed Doctor certificate under section 58 or 58A;
- Must submit report to the Care Quality Commission as required on treatment given to Supervised Community Treatment patients on the basis of a Second Opinion Appointed Doctor's "part 4A Certificate "
- Can sign a certificate under section 58 or 58A of the Act certifying that the patient has consented to medication or Electro Convulsive Therapy (respectively);
- Approved Clinicians are also bound by various duties on 'public authorities' under the Human Rights Act 1998, the Mental Capacity Act 2005, the Equality Act 2006 and other anti-discrimination legislation, all of which will contribute to the need for their independent decision making and for safeguarding the rights of the patient. Other legislation such as the Children Act 1995, the National Assistance Act 1948, the Care Standards Act 1995 and the Equal Opportunities Act 2006 form the legal framework within which they must undertake their duties.

2.2 Approval allows practitioners to undertake duties as above in any part of England

2.3 Doctors and only Doctors are automatically Section 12 approved doctors who are approved in England can be treated as approved in Wales and vice versa.

3. **RESPONSIBILITIES**

3.1 Aspiring or established Approved Clinicians **must**:

- Ensure they are approved **before** carrying out any of the functions for which approval is a legal prerequisite.
- Keep up to date with the latest Mental Health Act guidance & have ready access to the current Mental Health Act Code of Practice.

Recognise and work within the limits of their competence

- Work in accordance with the General Medical Council “Duties of a Doctor”.
- Work in accordance with their professional bodies’ good standard of practice code.
- Inform the Approved Clinician Administrator for their area if they become subject to Fitness to Practice proceedings by their professional body (suspension of registration automatically cancels Approved Clinician approval.)
- Inform the Administrator for their area of any change to home or work address or telephone numbers, or other contact information.
- Inform the Administrator for the relevant area of any employment move to a different Strategic Health Authority anticipated to be longer than six months.

4. GENERAL ADVICE AND WARNINGS

- 4.1 Approval **cannot** be given retrospectively. Practitioners whose approval has lapsed must refrain from carrying out those functions until their approval is renewed.
- 4.2 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 criteria requirements.
- 4.3 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 listing referred to in the professional requirements, or if any suspensions ends.
- 4.4 Approved Clinician Administrators endeavour to notify practitioners when their approval is due for renewal. That is why it is **essential** that practitioners inform Administrators of any of the changes outlined in section 3 above.
- 4.5 Approval may be withdrawn on the recommendation of the relevant Panel. Panels have their own criteria and arrangements for making these decisions and for considering any appeals against such decisions.
- 4.6 Your name, professional address, professional telephone number and period of approval will be entered in the Register of Approved Practitioners, which is made available on-line & routinely distributed to Approved Clinician Panel Members, Strategic Health Authorities, Primary Care Trust, Mental Health Trusts, Local Authorities, Private Hospitals, the public may have very limited access to only confirm Section 12(2) status. The Data Protection Act 1998 applies. If the information held is needed for any other purpose your permission will be sought prior to release. Apart from the published information, your information will be stored on a secure database.

- 4.7 Practitioners affirm they have insurance and /or indemnity for Section 12(2) work with a recognised medical defence organisation or similar body. Approved Clinician Panels DO NOT indemnify.

5. **CRITERIA FOR INITIAL APPROVAL**

Eligibility

Medical practitioners (doctors) must satisfy the criteria for Section 12(2) approval under the Mental Health Act 1983.

5.1 **ALL** Applicants must satisfy the following criteria:

- a) Have full registration with your professional registration bodies (not time-limited)
- b) Within two years prior to or during the application process attend two day approved Clinician Induction training course validated by a relevant Approved Clinician Panel.

Doctors who are not section 12(2) approved will need to attend a section 12 one day course.

- c) Provide evidence of participation in annual appraisal in the last 12 months and evidence of continuing professional development.

If registered for over one year, provide a Certificate of Good Standing (training grade doctors are exempt from these requirements)

- d) Supply the names of two referees from suitability qualified Approved Clinician or an Approved Mental Health Professional who have known you for a responsible period of time and has sufficient knowledge to form a judgement as to your suitability to undertake the role of Approved Clinician.
- e) Provide a current curriculum vitae.
- f) Satisfy at least one of the following sets of additional criteria:-

- **Criteria A**

- Hold a licence to practice
- be on the specialist registrar in one branch of psychiatry
- be eligible to be on the specialist register by having their Certificate of the Completion of Training date
- meet the criteria for Section 12(2) Approval.

Criteria B

- fulfils the requirement for one of the specified eligible groups.

- The Chief Executive of an organisation registered with the Care Quality Commission is responsible for ensuring the competencies are certified by suitability qualified Approved Clinician.
 - Demonstrate that you possess the relevant competencies by submitting a portfolio which must include.
 - evidence of current registration with the appropriate registration body.
 - Evidence of attendance at a two day approved clinician initial training course.
- * Evidence to demonstrate competence of -
- Understanding the role of the Approved Clinician
 - Legal and Policy Framework
 - Assessment
 - Treatment
 - Care Planning
 - Leadership and Multi-Disciplinary Team Working
 - Equality and Cultural Diversity
 - Communication
 - Two anonymised hypothetical case report relating to their involvement in the care of a detained patient.
- * Declaration by the applicant of agreement to comply with the conditions of approval required by regulation 6(1) of the Approved Clinician Directions, (see 4.2, 4.3,4.5)

5.3 **Criteria for Seeking Re-approval**

Renewal is not automatic and applications are processed in the same way as new applications. In addition to satisfying the general criteria listed above at 5.1 the following criteria apply in all circumstances: -

Criteria C

- Must complete an application form applying for re-approval.
- Either be on the Specialist Register in at least one branch of psychiatry or provide certification by a suitability qualified Approved Clinician representing the Chief Executive of an organisation registered with the Care Quality Commission that you can demonstrate you possess the relevant competencies
- Must provide evidence of attendance at a recognised refresher training course within the current period of approval.
- Certify you continue to meet the competencies of the role of Approved Clinician and retain evidence.

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- Must provide a copy of an annual appraisal and a Continuing Professional Development certificate.

5.4 Period of Approval

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

Procedures

NHS South West exercises its function by the retention of a panel and committee drawn from the membership of the register and chaired by a senior psychiatrist. The panel endeavours to be representative of its membership in terms of its geography, specialty and diversity by age gender ethnic background and staff group. The committee meets four times a year. On two of these occasions it is joined by the full panel.

The functions of both the panel and the committee are administered by the senior administrator who is supported by an administrative assistant.

1. Applications

For approval or submissions for re-approval should be to the administrative team in the first instance. The contact details are:

Hilary Eagles
Section 12/Approved Clinician/Deprivation of Liberty Safeguards Lead
NHS South West
Jenner House
Langley Park Estate
Chippenham
Wiltshire SN15 1GG

Phone: 01249 468351/01249 468350

E-mail: hilary.eagles@southwest.nhs.uk

Website: www.section12.southwest.nhs.uk

Information is available on the website and downloadable application form can be used. Electronic submissions are acceptable and preferred.

2. Completed applications are subjected to administrative process which includes:-

- Check that forms have been completed correctly
- Initial appraisal against published criteria
- Professional Organisation Registration check
- Check against NHS South West Professional Performance Alerts Notices '
- Contact with named referees and references taken
- Distribution to two panel members for scrutiny
- Decision made
- Decision communicated to applicant

In the above although processes are followed strictly, where there is minor doubt or disagreement the panel chair may be asked to make a decision. For major doubt or

disagreement the matter is put to either the committee or the full panel at the next available hearing for resolution.

3. Appeals.

Individuals are able to appeal against any decision by notifying the chair of the panel in writing. The appeals process will then be

The appeals process will then be:-

- The Chair will review the application against the additional information and either
- Make the decision to approve;
- Send the application and additional information to the two panel members who scrutinised papers originally;
- Take to the next available Committee or Full Panel meeting for review;
- The decision and reasoning will then be communicated to Individual and referees.

If the individual is still not satisfied with the decision they must notify the chair of the panel in writing.

- The application will then be sent to a panel outside of the South West who will review the application against the NHS South West Criteria.
- Their decision and reasoning will be communicated to the individual and referees.

If the individual is still not satisfied with the decision they must notify the chair of the panel in writing.

- An extraordinary panel will be convened comprising of the vice Chair, a Senior Director from NHS South West, Section 12/Approved Clinician Lead, two additional members from panels outside the South West.
- The decision will be final and communicated to the individual and referees.

4. Training

The responsibilities of the Approved Clinician panel do not include provision of specialist training. However, the panel has arranged for training events to be developed under their auspice and will continue to provide practitioners with information in respect of training opportunities.

5. Aspiring Members of the Register or existing members of the Register

Should feel free to discuss any aspect of the function with either their speciality representative, a panel representative, with the administration team or via the Website .