EAST KENT HOSPITALS UNIVERSITY NHS FOUNDATION TRUST

CLINICAL MANAGEMENT BOARD – 24th July 2009

SUBJECT:	**Patients with Learning Disabilities – 6 Lives Ombudsman's report**
REPORT FROM:	**Daniel Marsden – Practice Development Nurse for patients with learning disabilities**
PURPOSE:	**CMB Endorsement of Recommendations**

SUMMARY

This report provides the CMB with:

- Information relating to Healthcare for All – The Independent Inquiry into access for people with learning disabilities
- Information relating to the Health Service Ombudsman's investigations into 6 unexplained deaths of people with learning disabilities highlighted in Death by Indifference.
- Role and Key targets for Practice Development Nurse for patients with learning disabilities.
- Recommendations for CMB consideration regarding people with learning disabilities.

IMPACT ON TRUST'S STRATEGIC OBJECTIVES

- Supports the achievement of Patient Safety and Patient Experience objectives.
- Supports the Trusts targets set in the Disability Equality Scheme.
- Supports the Trusts implementation of Patient Experience Teams.
- Supports the Trusts duties to Safeguarding Vulnerable Adults.
- Supports the Trusts implementation of Mental Capacity Act.

FINANCIAL IMPLICATIONS:

- Any future Breaches of Mental Capacity Act may lead to legal challenges and financial penalties associated battery and omission.
- Challenges under Patient Safety.

LEGAL IMPLICATIONS:

This report highlights:-

- Individual case studies of staff in other organisations staff convicted of breaches of Mental Capacity Act
- Avoidance of costly legal interventions under Mental Capacity Act, Disability Discrimination Act
- Ensure the Disability Equality Duty

BOARD ACTION REQUIRED:

- Overall support for this paper
- Support for Recommendations for further work
- The Trust needs to make a report on progress by March 2010, the SHA will want information on progress so this paper seeks agreement on the direction and detail and suggests a further report back early in 2010 to agree the march report

CONSEQUENCES OF NOT TAKING ACTION:

- Rise in complaints
- Regulatory bodies will investigate and publish results against quality indicators.
- Negative publicity relating to breaches of the Mental Capacity Act.

Name Daniel Marsden

Designation Practice Development Nurse for patient with learning disabilities

EAST KENT HOSPITALS UNIVERSITY NHS FOUNDATION TRUST

CLINICAL MANAGEMENT BOARD – 21st July 2009

Our 'Special Responsibility' to Vulnerable People

Implementing Recommendations from Health Care for All (Michael Inquiry) and Six Lives - Ombudsman Report for Review of care for people with learning disabilities

i. Context

In 2007 Mencap published its Death by Indifference (2007) report. This focused on six people with learning disabilities who died in hospital care. Mencap asserted that they had died due to service failures and charged that health services were 'institutionally discriminatory'.

This report prompted two direct actions from the Government:-

- An independent inquiry Healthcare for All (2008) into access to health care for people with learning disabilities. This contained recommendations for the delivery of provider services on which the East Kent Hospitals Universities NHS Foundation Trust (EKHUFT) action plan is based.
- An Ombudsman's investigation Six Lives (2009) and report on the six cases cited in Death by Indifference.

The Government referred to both of these documents in Valuing People (2009) and confirmed their commitment to the recommendations contained in both.

All four documents make reference to the legal framework currently in place and recommend health services are challenged using Disability Discrimination Act (1995) and Mental Capacity Act (2005) to ensure that these experiences are not repeated.

Locally, the Trust has stated it's "special responsibility…for…vulnerable people" in its mission statement. To this end the Trust has lived up to its legal duty to publish it's Disability Equality Scheme and reviewed this in the first half of 2009. In practice the trust has a working relationship with Kent Learning Disability Partnership Board, and specialist learning disability professional services available locally.

The Pacesetter programme has offered many learning opportunities, in particular that the Easy to Read Menu at Queen Elizabeth Queen Mother Hospital will be a success. Clinicians agree that it will be useful for many people that have communication difficulties, not just people with learning disabilities. With this in mind, it is asserted that if the Trust embeds mainstream legislation including Mental Capacity Act (2005) as a way to effectively work with all patients, people with learning disabilities will receive equality through delivery of a service based on individual need.

ii. Six Lives: the provision of public services for people with learning disabilities overview.

The Ombudsman's findings show that

- In one case death was avoidable

- In one case it was likely death could have been avoided
- In four out of six cases the person was treated less favourably for disability related reasons
- In four cases public bodies had failed to live up to human rights principles
- In five cases complaint handling was poor

The Ombudsman draws three conclusions based on the investigation and these results:-

a) There is a lack of understanding of the Disability Discrimination Act (1995) and the social model of disability on which it is based by senior Health staff. The Act requires service providers to take positive steps to make services accessible to disabled people these are described a 'reasonable adjustments' (see appendix 2):-
    - Access its information
    - Use its premises
    - Have the necessary individualised support to access the service.

b) That the intended 'human rights culture' in public services has not been embedded as the government intended from the Human Rights Act introduction in 1988. Specifically the principles of fairness, respect, equality, dignity and autonomy for all.

c) Lack of leadership to observe basic policy, standards and guidance, implement necessary adjustments and co-ordinate services.

The Ombudsman highlighted 5 areas for concern:-

a) Communication
    - Between clinicians and patients
    - Between clinicians and carers
b) Partnership Working
    - Between clinicians in the multidisciplinary team
    - Between statutory organisations
c) Relationship with Carers
    - Little recognition that carers are by default a member of the patient's team.
d) Failure to follow routine procedures
    - Evidence routine good practice guidance was not followed.
e) Quality of Management
    - Lack of awareness of legislation
    - Poor standards of care planning, pain management, consent and discharge arrangements.
f) Advocacy
    - Independent advocates were not employed.

The Ombudsman observes that there is sufficient legislation, research, good practice guidance and expertise available, however concerns remain that issues of this kind will reoccur. This poses questions for EKHUFT relating to the implementation of current legislation and research as a framework for practice.

The Ombudsman has made the following recommendations:-

1. Provider organisations should review and report to the board in 12 months – assumed to be by March 2010 - on:-

a) The effectiveness of systems in place to enable us to understand and plan to meet the full range of needs of people with learning disabilities and
b) The capacity and capability of services to provide for their local populations to meet the additional and often complex needs of people with learning disabilities.

2. Regulator organisations – Care Quality Commission and Monitor – should satisfy themselves both individually and jointly that their regulatory frameworks are meeting the statutory requirements relating to the provision of services to people with learning disabilities and should report to their boards in 12 months time – assumed to be March 2010.

3. Department of Health should promote and support these recommendations and publish a progress report in 18 months (assumed to be August 2010).

iii. Practice Development Nurse for patients with learning disabilities

The Practice Development Nurse role has been developed by the Associate Director of Nursing for Quality Improvement in collaboration with Primary Care Trust Commissioners. The job description covers more distinct roles of:-

- Clinical leadership
- Community liaison
- Policy development
- Project management
- Training and education.

Since coming into post in December 2008 clinical advice has been sought in 17 clinical cases. The themes reflected the Ombudsman's areas for concern these included:

a. Communication with patients.
b. Capacity and Consent.
c. Involving carers and community professionals in decision making.
d. Transfer of care to community facilities.
e. Record keeping.
f. Professional attitude.
g. Clinical issues of pain assessment and risk management.

iv. Gap Analysis

A. Communication –

Principles

The Disability Discrimination Act (1995) and the Mental Capacity Act (2005) are vital legal frameworks intended to instil a human rights culture in healthcare.

'Reasonable Adjustments' (Department of Constitutional Affairs, 2005) in a clinical situation will be individually determined but could include the following

- The first or last appointment in outpatients
- A longer appointment
- Additional tests/investigations where distress is apparent but diagnosis in not obvious
- Particular attention to pain management where the person cannot speak
- Using diverse communication methods
- Paying particular attention to the views of family members or long term carers where the person cannot clearly communicate

Principle 2 of the Mental Capacity Act (see appendix 3, 2005) states that 'all practicable steps' should be taken to enable the patient to make a decision about their health care. In the Trust context, this requires adequate tools and training to establish effective communication between staff and patients.

Current Work
The PCT commissioners have purchased and delivered each ward and department in the Trust a Hospital Communication book which offers signs, symbols and tips for communicating with patients with communication difficulties. Anecdotal evidence suggests the Communication book is not currently being used; and audit would offer weight to this.

Easy to Read leaflets, packs and DVD's relating to particular acute health conditions have been purchased. A plan for locating this information on all three main sites is being developed.

Recommendations:

i. The Trust evaluates its Disability Equality Scheme involving all stakeholders in its planning, development and implementation.
ii. The Trust evaluates its implementation of the Mental Capacity Act, and supports a business case for a short term post to facilitate and implement a Mental Capacity Act policy, training schedule and method for audit and monitoring to be embedded within the Safeguarding Board.
iii. The Trust evaluates its Patient Information policy and its accompanying Equality Impact Assessment with reference to Disability Discrimination Act (1995) and Mental Capacity Act (2005).
iv. An audit of Hospital Communication Books is completed to establish usage.
v. A distribution and training strategy for symbols software packages is established.

B. Partnership Working

Principles
Partnership working is based on the assumption that professionals recognise a need to involve another professional. Several questions need to be considered to facilitate effective partnership working:

Can Trust employees identify patients with learning disabilities?
Can the employee manage the situation without help?
Does the employee know where to go for help if it is required?

Lastly, the Trust must consider how systems can be adapted to support staff to answer these questions.

Current work
Embedding working partnerships with community services, in particular Community Learning Disability Teams in East Kent is essential to provide experience, skills, and often a working knowledge of the patient. Following a complaint in 2008 a guideline has been drafted to share with all wards relating to the capacity needs of people with learning disabilities and the contact details of local teams. A plan for its dissemination is being developed.

As of May 2009 the Care Quality Commission (CQC) requested the Trust to consult with the Kent Learning Disability Partnership Board regarding our Annual Health Check submission. To receive a meaningful response, a co-ordinated plan for consultation is required in preparation for the November submission.

Recommendations:

i. The Trust develop a strategy for identifying and tracking people with learning disabilities through Trust services using PAS, medical records, and patient hand held records.
ii. The Trust reviews its systems for patient feedback on service delivery including Dr Foster, Patient Experience tracker, and Care Quality Commissions Annual Health Check, and the Inpatient Survey.
iii. The Trust audit staff knowledge and experience of learning disabilities, and identify educational and training needs with a view to establishing learning disability training in the wider training strategy.

a. Relationship with carers

Principles

Family and paid carers play a vital role in supporting vulnerable patients in Hospital and can offer both a working knowledge of the patient for assessment purposes and support the ward team through delivering aspects of care. However this expertise is not routinely acknowledged or accounted for. This raises accountability issues for staff and questions relating to governance for the Trust.

Current work

Patients who display behaviour that challenge often require an inter-agency approach to risk assessment and management to ensure effective diagnosis and treatment along with safe passage through the Trust service. Currently a risk assessment tool (See Appendix 4) is being piloted at William Harvey to identify patients who may challenge; this will require evaluation and implementation throughout the Trust.

Effective collaborative working on areas such as risk management, effective communication and task division is dependant upon effective role negotiation.

Currently the Trust has made several isolated payments to care organisations to support individuals while they stayed in the Trust's care. This solution needs to be formalised within an agreed framework.

Recommendations:

i. The Trust work with carers to review how it supports carers, and formalise its position and systems within an agreed framework.
ii. The Trust evaluates its risk assessment framework with a view to implement throughout the Trust.

C. Failures to follow routine procedures

Principles

The Disability Discrimination Act requires the Trust to make 'reasonable adjustments' (see Appendix 2) in planning and delivering services. This has implications for all Trust staff and ought to be reflected in Trust publications, practice and education.

Use of restricting and restraining equipment for people who actively refuse nutrition has recently been brought to the Safeguarding Board for advice and written guidance.

Current Work

The legal department are currently drafting a preface to these practice guidelines, to acknowledge equipment use within the Trust. However this has highlighted the Trust's lack of position relating to the patient's rights under the Mental Capacity Act (2005).

Staff who do not follow and record they are working to the principles of the Mental Capacity Act (2005) risk individual prosecution. It is currently unclear as to whether the Trust could be

held culpable due to the lack of policy statement and its absence from the mandatory training register.

Policy and its monitoring could also offer insight into how people without capacity are being supported to make decisions within the Trust. A planned audit of Consent Form 4 will offer baseline statistics as to how many patients lacked capacity to make decisions about their healthcare.

Photosymbols and Change Picture Bank software licenses have been purchased to create information that is easier to understand and is visually engaging. A plan for Licence distribution and training is in development.

Recommendations:

i. Implement mandatory 'Reasonable Adjustments' training for all Trust staff.
ii. Distribution of Easy to Read information for patients around the Trust, ensuring 24 hour access.

D. Quality of Management

Principles

Healthcare for All (2008) states providers of health services should ensure systems are in place to identify and track people with learning disabilities through their service. This request corresponds with staff's request for prior knowledge of patient needs.

Current work

Currently General Practitioners are paid to keep a register of people with learning disabilities. It could be possible for this information to be shared, but raises questions relating to how the Trust would hold and monitor the information. Careful consideration with Primary Care Trust Commissioners and Providers would be required to resolve this, and the Trust will need to consider this solution in context of several others.

The Ombudsman stated there was little understanding of Disability Discrimination Act at senior management levels. It is stated in the Trust's Disability Equality Scheme that Equality Impact Assessments will be conducted to consider how people with disabilities could be negatively affected by each individual policy. Audit of recent and new policies, along with Equality Impact Assessments will offer insight into skills and knowledge of those completing them. An Education programme for senior managers could then be developed to enable effective consideration of equality and human rights issues.

CQC have recently published indicators that correspond with the Provider recommendations from Healthcare for All (Michael, 2007) these can be found in an action plan format in Appendix 1.

Recommendations:

i. The Trust to evaluate staff training needs to identify patients with communication problems.
ii. Audit of Policy and Equality Impact Assessments published or reviewed over the last 18 months.

E. Advocacy

Principles

The Ombudsman upheld all complaints relating to the 'draining and demoralising' complaints process, however the Health and Social Care Act 2008 offers a new opportunity to ensure that the complaints process is person centred and more efficient.
'Hearing from the Seldom Heard' is a Department of Health project to support services engage with people with learning disabilities and complex communication difficulties. It advocates several areas of best practice including access to independent advocacy and a 'complaints buddy' as required.

Current work
As an Early Adopter Trust, the Patient Experience Teams have a vital role in supporting patients' voices to be heard and for problems and complaints to be resolved. These Teams will require a working knowledge of the Mental Capacity Act, along with alternative communication styles to ensure efficient collection of information.

Currently independent advocacy is only used in issues relating to capacity (IMCA). However the Ombudsman observes that had advocacy been available to the patients in the investigation it is believed this would have had a positive affect on patient outcomes. Several independent advocacy services are available in East Kent that have experience of working with people with learning disabilities.

Foundation status offers new opportunities for people with learning disabilities to influence the planning and development of the Trust. However the Foundation communication strategy has not considered the needs of people with learning disabilities. Reviewing this strategy is essential to ensure engagement with people with communication difficulties and ensure they have their say over the development and planning with the Trust.
The elected Board of Governors ought to reflect the population demographics, and as such it is essential the Trust work closely with all user groups to ensure Governor positions are available, particularly to people with learning disabilities.

An employment strategy for people with learning disabilities must be considered, ensuring effective training opportunities for volunteers, along with a job carving scheme to ensure the workforce reflects the local demographics.

Recommendations:

i. Investigate and implement the use of local independent advocacy organisations to support Trust business.
ii. The Trust evaluates its communication strategy with Members and the local community.
iii. The Trust evaluates its employment policy and equality impact assessment.
iv. The Trust adopts recommendations from 'Hearing from the Seldom Heard' within Patient Experience.

v. Conclusion

It is asserted that this report offers some anecdotal experiences and reflections on the Trusts systems to understand and plan for the needs of people with learning disabilities as well as its capacity and capabilities to provide for people with complex needs.

In implementing the Recommendations made herein, a subsequent report in April 2010 will provide the essential evidence to respond to the Ombudsman's requests in 2a and a work plan to ensure the Trust not only minimises the patient safety issues to individuals with learning disabilities, but also enshrines human rights within Trust systems for all patient groups.

Further to this, Annual Reports to the Board are essential to respond effectively to Sir Jonathan Michel's recommendations and to ensure that the needs of this vulnerable patient group are established as core business under the Trust's vision of the 'special responsibility'.

Daniel Marsden, Practice Development Nurse for Patient with Learning Disabilities – July 09.

References

British Institute of Learning Disabilities (2009) Hearing from the Seldom Heard [Online] Available at http://www.bild.org.uk/humanrights_seldomheard.htm

Department of Constitutional Affairs (2007) Mental Capacity Act 2005 Code of Practice [Online] Available at http://www.dca.gov.uk/legal-policy/mental-capacity/mca-cp.pdf

Department of Health (2009) Valuing People Now : a new three year strategy for people with learning disabilities. [Online] Available at http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_093377

Disability Rights Commission (2005) Disability Discrimination Act 1995 Code of Practice [Online] Available at http://83.137.212.42/sitearchive/DRC/the_law/legislation__codes__regulation/codes_of_practice.html

Mencap (2007) Death By Indifference [Online] Available at http://www.mencap.org.uk/document.asp?id=284

Michael, J (2008) Healthcare for All : Independent Inquiry into access to healthcare for people with learning disabilities [Online] Available at http://www.iahpld.org.uk/

Parliamentary and Health Service Ombudsman (2009) Six Lives : the provision of public services to people with learning disabilities [Online] Available at http://www.ombudsman.org.uk/improving_services/special_reports/hsc/six_lives/index.html

Appendix 1

CARE QUALITY COMMISSION INDICATORS – Access to Healthcare for people with a learning disability

CQC Performance Indicators	Current CQC score	Actions	Who	Date
1. Does the trust have a mechanism in place to identify and flag patients with learning disabilities and protocols that ensure that pathways of care are reasonably adjusted to meet the health needs of these patients?	(1) = Protocols /mechanisms are not in place.	i. The Trust develop a strategy for identifying and tracking people with learning disabilities through our services using PAS, medical records, and patient hand held records.	Daniel Marsden, Information Management, Primary Care providers and Commissioners, Users	Complete and presented to CMB by April 2010

CQC Scoring Guide

(1) = Protocols/mechanisms are not in place.
(2) = Protocols/mechanisms are in place but have not yet been implemented.
(3) = Protocols/mechanisms are in place but are only partially implemented.
(4) = Protocols/mechanisms are in place and are fully implemented.

CQC Performance Indicators	Current CQC score	Actions	Who	Date
2. In accordance with the Disability Equality Duty of the Disability Discrimination Act (2005), does the trust provide readily available and comprehensible information jointly designed and agreed with people with learning disabilities, representative local bodies and/or local advocacy organisations) to patients with learning disabilities about the following criteria: • treatment options (including health promotion) • complaint, procedures and • appointments	1. Accessible information not provided	i. The Trust evaluates its Patient Information policy and accompanying equality impact assessment, with reference to Disability Discrimination Act (2005) and Mental Capacity Act (2005). ii. An audit of Hospital Communication Books is completed to establish usage. iii. A distribution and training strategy for symbols software packages is established.	Daniel Marsden, Bruce Campion Smith, Equality, Diversity and Human Rights steering group, Safeguarding Board Daniel Marsden, Matrons Audit Department Daniel Marsden, Communications Department, Foundation Office, Health Informatics Service	Completed and reported back to CMB by January 2010. January 2010 April 2010

CQC Scoring Guide

1. Accessible information not provided
2. Accessible information provided for one of the criteria
3. Accessible information provided for two of the criteria
4. Accessible information provided for all three of the criteria.

CQC Performance Indicators	Current CQC score	Actions	Who	Date
3. Does the trust have protocols in place to provide suitable support for family carers who support patients with learning disabilities, including the provision of information regarding learning disabilities, relevant legislation and carers' rights?	(1) = Protocols/ Mechanisms are not in place.	i. The Trust work with carers to review how it supports carers, and formalise its position and systems within an agreed framework.	Daniel Marsden, Julie Barton, Trust Governors and Membership, Patient Experience, Safeguarding Group	Policy Drafted for review by CMB by April 2010

CQC Scoring Guide

(1) = Protocols/mechanisms are not in place.
(2) = Protocols/mechanisms are in place but have not yet been implemented.
(3) = Protocols/mechanisms are in place but are only partially implemented.
(4) = Protocols/mechanisms are in place and are fully implemented.

CQC Performance Indicators	Current CQC score	Actions	Who	Date
4. Does the trust have protocols in place to routinely include training on learning disability awareness, relevant legislation, human rights, communication techniques for working with people with learning disabilities and person centred approaches in their staff development and/or induction programmes for all staff?	(1) = Protocols/ Mechanisms are not in place.	i. The Trust evaluates its implementation of the Mental Capacity Act, and supports a business case for a post to facilitate and implement a Mental Capacity Act policy, training schedule and method for audit and monitoring to be embedded within the Safeguarding Board.	Sally Moore, Wendy Bates, Daniel Marsden and Safeguarding Board.	Business Case presented by October 2009.
		ii. The Trust audit staff knowledge and experience of learning disabilities, and identify educational and training needs with a view to establishing learning disability training in the wider training strategy.	Daniel Marsden, Audit Department, Matrons.	Completed and Reported to CMB by April 2010
		iii. Implement mandatory 'Reasonable Adjustments' training for all Trust staff.	Daniel Marsden and Safeguarding Board, Bruce Campion Smith, Equality, Diversity and Human Rights steering group,	Strategy completed and agreed by January 2010.

CQC Performance Indicators	Current CQC score	Actions	Who	Date
5. Does the trust have protocols in place to encourage representation of people with learning disabilities and their family carers within Trust Boards, local groups and other relevant forums, which seek to incorporate their views and interests in the planning and development of health services?	(1) = Protocols/ Mechanisms are not in place.	i. The Trust review its systems for patient feedback on service delivery including Dr Foster, Patient Experience, and Care Quality Commissions Annual Health Check and the Inpatient Survey.	Daniel Marsden, Sally Moore, Julie Barton, Pam Williams, Equality, Diversity and Human Rights steering group, Safeguarding Board.	Completed and reported back to CMB by January 2010.
		ii. Investigate and implement the use of local independent advocacy organisations to support Trust business.	Daniel Marsden, Sally Moore, Safeguarding Board.	April 2010
		iii. The Trust evaluates its communication strategy with Members and the local community.	Daniel Marsden, Lynda Pearce, Governors Communications Committee, Foundation Trust Office, Communication Department.	January 2010
		iv. The Trust evaluates its employment policy and equality impact assessment.	Daniel Marsden, Bruce Campion-Smith, Equality, Diversity and Human Rights steering group.	April 2010
		v. The Trust adopts and implements recommendations from 'Hearing from the Seldom Heard' within Patient Experience.	Daniel Marsden, Julie Barton, Amanda Bedford, Patient Experience Teams.	January 2010

CQC Performance Indicators	Current CQC score	Actions	Who	Date
6. Does the trust have protocols in place to regularly audit its practices for patients with learning disabilities and to demonstrate the findings in routine public reports?	(1) = Protocols/ Mechanisms are not in place.	i. The Trust evaluates its Disability Equality Scheme involving all stakeholders in its planning, development and implementation. ii. Audit of Policy and Equality Impact Assessments published or reviewed over the last 18 months. iii. Review Action Plan in twelve months, and then annually via Equality and Diversity and Safeguarding groups.	Bruce Campion Smith, Equality, Diversity and Human Rights steering group, Human Resources, Daniel Marsden Daniel Marsden, Bruce Campion Smith, Equality, Diversity and Human Rights steering group, Safeguarding Board. Daniel Marsden, Julie Pearce, Safeguarding Board, Equality, Diversity and Human Rights steering group	By April 2010 January 2010 April 2010

CQC Scoring Guide

(1) = Protocols/mechanisms are not in place.
(2) = Protocols/mechanisms are in place but have not yet been implemented.
(3) = Protocols/mechanisms are in place but are only partially implemented.
(4) = Protocols/mechanisms are in place and are fully implemented.

Appendix 2

Reasonable Adjustments (Disability Rights Commission, 2005)

The duty to make adjustments is an anticipatory duty, owed to disabled persons at large– it is based on the duty in relation to goods, facilities and services. Broadly speaking, public authorities must make adjustments to the way in which they carry out their functions so that disabled people are not disadvantaged by the way in which those functions are carried out. There are three parts to the duty to make adjustments:

1. a duty to take reasonable steps to change a practice, policy or procedure which makes it impossible or unreasonably difficult for disabled people to receive any benefit which may be conferred; or unreasonably adverse for disabled persons to experience being subjected to a detriment to which a person is or may be subjected by the carrying out of a function.

2. a duty to take reasonable steps to remove, alter, provide a reasonable means of avoiding, or adopting a reasonable alternative method of carrying out a function, where a physical feature makes it impossible or unreasonably difficult for disabled persons to receive any benefit that is conferred; or unreasonably adverse for disabled persons to experience being subjected to any detriment to which a person is or may be subject, by the carrying out of a function by a public authority

3. a duty to take reasonable steps to provide an auxiliary aid or service where it would enable persons to receive or facilitate the receiving by disabled persons of any benefit conferred or reduce the extent to which it is adverse for disabled persons to experience being subjected to any detriment to which a person is or may be subjected by the carrying out of a function by a public authority.

Appendix 3

Mental Capacity Act (Department of Constitutional Affairs, 2005) Principles

1. A presumption of capacity – every adult has the right to make his or her own decisions and must be assumed to have capacity to do so unless it is proved otherwise;

2. Individuals being supported to make their own decisions – a person must be given all practicable help before anyone treats them as not being able to make their own decisions;

3. Unwise decisions – just because an individual makes what might be seen as an unwise decision, they should not be treated as lacking capacity to make that decision;

4. Best interests – an act done or decision made under the Act for or on behalf of a person who lacks capacity must be done in their best interests; and

5. Least restrictive option – anything done for or on behalf of a person who lacks capacity should be the least restrictive of their basic rights and freedoms.

Appendix 4

Risk Assessment

East Kent Hospitals NHS NHS Trust

MENTAL HEALTH & LEARNING DISABILITY RISK ASSESSMENT AND MANAGEMENT PLAN

Date & Time of Admission……

Date & time of Assessment ……

PAS Sticker here

DESCRIBE CURRENT BEHAVIOUR

RISK FACTORS

	Risk of Suicide or Self harm		Risk of harm to Others		Risk of Exploitation
	Risk of Self Neglect		Confused (Wandering)		Acute Confusional State
			Confused (Aggressive)		
	Learning Disability		Awaiting transfer to MH Bed		Patient sectioned under MHA
	Challenging Behaviour due to HI.		Challenging Behaviour due to Alcohol/Drugs		Medications
					Other

DESCRIBE THE RISK AND INCLUDE WHAT MAKES THINGS BETTER OR WORSE FOR PATIENT

What is likely to occur?									
No Injury	1	Minor Injury	2	Moderate Injury	3	Serious Injury	4	Fatal	5
What is Level of Risk?									
None	1	Minor	2	Moderate	3	Serious	4	Fatal	5

Overall Score (This is the level of risk score x how likely is its to occur score)

High Risk	16 -25	Level 3 & 4 * (*Refer to Guidelines)
Medium risk	6 - 15	Level 2
Low Risk	1 - 5	Level 1

OVERALL SCORE …….. Signature of Assessor……..Date……..

MANAGEMENT PLAN

Action required	Contact name & Position	Date and Time	Signature
Has PMH been explored in nursing assessment (e.g. medication regime)?			
Contact GP or other relevant professional e.g. CPN to gain additional past history			
Referral to Old Age Liaison Nurse			
Referral to Psychiatrist	☐Younger persons ☐Older Persons		
Referral to CATT Team			
Referral to Learning Difficulties Team			
Referral To Social Services			

RECORD OF IDENTIFIED RISK

Date/ Time	Level of risk	Plan to reduce Risk and keep patient Safe	Review Date/Frequency	Signature
