This policy/procedure relates to the arrangements that need to be made when arranging for a Second Opinion Appointed Doctor (SOAD) to review a patient's treatment when this is required by the Mental Health Act.

This policy also relates to patients who have been discharged from detention in hospital under a Community Treatment Order.

ASSOCIATED TRUST POLICIES & PROCEDURES:

Consent to Examination or Treatment – 1.03
Informing Detained Patients of Their Rights under Section 132 and 130D of the Mental Health Act 1983 – 8.04
1.0 Introduction

2.0 Policy Principles
   2.1 Requesting a SOAD Visit: Inpatients
   2.2 Requesting a SOAD Visit: Community Patients
      2.2.3 How to Contact the CQC
   2.3 Arranging and preparing for SOAD visits
   2.4 Statutory Consultees
   2.5 The SOADs Decision and Reasons
   2.6 Status of Certificates under Part 4 and Part 4A

3.0 Definitions

4.0 Duties

5.0 Training

6.0 Target Audience

7.0 Review Date

8.0 Consultation

9.0 Monitoring Compliance

10.0 Equality Impact Assessment

11.0 Legislation Compliance

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13.0 References/Source Documents

Appendix 1 Procedure for Arranging a SOAD Visit
Appendix 2 SOAD VISIT - Named Nurse/Care Co-ordinator Checklist
Appendix 3 Equality Impact Assessment Screening Tool
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NOTTINGHAMSHIRE HEALTHCARE NHS FOUNDATION TRUST

PROCEDURE FOR ARRANGING A SECOND OPINION APPOINTED DOCTOR (SOAD) VISIT

1.0 INTRODUCTION

1.1 A Second Opinion Appointed Doctor (SOAD) is a doctor appointed by the Care Quality Commission in order to review a detained or a community patient’s treatment where this is required by the Mental Health Act.

1.2 The role of the Second Opinion Appointed Doctor (SOAD) is to provide an additional safeguard to protect the patient's rights, when they are detained under the Mental Health Act 1983 or are subject to a Community Treatment Order (CTO).

1.3 Part 4 of the Mental Health Act 1983 governs the treatment of detained patients for a mental disorder. Section 58 provides that medication for a mental disorder may not be given for more than three months without a certificate confirming that the patient has capacity and is consenting (T2) or where the patient has capacity and is not consenting, or lacks the capacity to consent, a SOAD certificate (T3).

1.4 In addition, s58A (governing ECT) requires a SOAD examination and provision of a relevant certificate (T4, T5, T6) in certain circumstances. This includes circumstances where a detained patient has made an advance decision to refuse ECT and where the person is under the age of 18. See local ECT protocols for a detailed exploration of those circumstances.

1.5 Part 4A of the Mental Health Act 1983 governs the treatment of community patients for a mental disorder. Treatment under this part requires both the authority to treat and a certificate. Community patients who have the capacity to decide may not be given treatment for their mental disorder unless they consent. This consent is recorded on a certificate CTO12. Treatment for other community patients will require a SOAD opinion which will be completed on a certificate CTO11.

2.0 POLICY PRINCIPLES

2.1 Requesting a SOAD visit: inpatients

2.1.1 The Mental Health Act administrators will have notified the Responsible Clinician that the expiry of three month period is approaching at least four weeks before expiry. If following a discussion with the patient prior to expiry of this period, an inpatient does not consent to, or lacks the capacity to consent to the treatment plan; the Care Quality Commission must be contacted to arrange for a visit by a SOAD.

2.1.2 If a SOAD certificate is required, the clinician in charge of the treatment in question has the personal responsibility of ensuring that a request is made to the Commission for a SOAD visit (MHA Code 2015 (25.43)).

2.1.3 Clinicians should not normally request a visit from a SOAD in order to obtain a certificate which they could issue themselves confirming that the patient has consented to treatment. They should request a visit for that purpose only if they are genuinely unable to determine for themselves whether the patient has the capacity to consent or whether the patient is in fact consenting (MHA Code 2015 (25.44)).
2.2 Requesting a SOAD Visit: Community Patients

2.2.1 A certificate is not always required immediately at the commencement of the Community Treatment Order. The certificate requirement commences one month from when the patient leaves hospital or three months from when the medication was given to the patient, whichever is later.

2.2.2 If following a discussion with the patient prior to expiry of this period, a community patient who has the capacity to do so consents, the RC will complete a certificate CTO12. In other circumstances the Care Quality Commission must be contacted to arrange for a visit by a SOAD for completion of a certificate CTO11.

2.2.3 How to Contact the CQC

- The request form is on the CQC website and must be completed and sent electronically. It has replaced the fax and email forms which are no longer accepted by the CQC.
- Access to the form is available from: [https://webdataforms.cqc.org.uk/Checkbox/SOAD.aspx](https://webdataforms.cqc.org.uk/Checkbox/SOAD.aspx)
- Doctors will need to ensure that they complete the form correctly as the form does not pick up on errors in completion. The CQC will return any incorrectly completed forms directly to the Chief Executive.
- When the request is completed on-line and sent it is not accessible and therefore copies must be printed off or saved electronically (if possible) before it is sent to the CQC.
- This form should be copied to the Mental Health Act administrators either electronically (if possible) or printed off and posted.

2.3 Arranging and preparing for SOAD visits

2.3.1 SOADs will visit detained patients in hospital. For CTO patients, arrangements must be made for SOAD to see the patient at a mutually agreed place, for example, at an outpatient clinic or somewhere that the patient might visit regularly (MHA Code 2015 (25.45)).

2.3.2 Attending a mutually agreed place for examination by a SOAD is a condition of all Community Treatment Orders (CTO). If CTO patients fail to attend when asked to do so, they may be recalled to hospital for the examination, if necessary. However, this should only ever be the last resort (MHA Code 2015 (25.46)).

2.3.3 The treatment proposal for the patient. Together with notes of any relevant multi-disciplinary discussion on which it is based, must be given to the SOAD before or at the time of the visit. If a Part 4A certificate is being requested, the proposal should clearly indicate which (if any) treatments it is proposed should be authorised in the case of the patient’s recall to hospital (MHA Code 2015 (25.47)).

2.3.4 During a visit, SOADs should:

- Satisfy themselves that the patient’s detention or CTO papers are in order (where applicable) and
- Interview the patient in private, if possible. Others may attend if the patient and the SOAD wish, or if it is thought that the SOAD would be at significant risk of
physical harm from the patient (and the SOAD agrees). (MHA Code 2015 (25.48)).

2.3.5 It is the responsibility of the hospital to ensure that people whom the SOAD wishes to meet (including the clinician in charge of the treatment) are available in person at the time the SOAD visits (MHA Code 2015 (25.49)).

2.3.6 It is also the responsibility of the hospital to ensure that all relevant documentation, including the patient’s full clinical notes, are available for the SOAD’s inspection.

2.3.7 SOADs have a right to access records without the patient’s consent, if necessary, but only those records relating to treatment of the patient in the hospital or other establishment in which they are examining the patient. If a CTO patient with capacity to do so refuses the SOAD access to records which the SOAD thinks are relevant, the examination should be arranged in a hospital where the relevant records would be available (MHA Code 2015 (25.50)).

2.3.8 Where the proposed treatment includes medication, the SOAD’s attention should be drawn specifically to any recent review of the patient’s medication. Clinicians should consider seeking a review by a specialist mental health pharmacist before seeking a SOAD certificate, particularly if the patient’s medication regimen is complex or unusual (MHA Code 2015 (25.51)).

2.3.9 Approved clinicians should ensure that SOADs are informed if the hospital knows that the patient has Personal Welfare Lasting Power of Attorney or court appointed deputy who is authorised under the Mental Capacity Act to make decisions about medical treatment on the patient’s behalf. Details of any relevant advance decisions to refuse treatment (ADRT), or advance statements of views, wishes or feelings, should already be recorded in the patient’s notes and these must be drawn to the SOAD’s attention (MHA Code 2015 (25.52)).

2.3.10 This is particularly important in the case of patients who may have ADRTs relating to Electroconvulsive Therapy as s58A (5) requires the SOAD to certify that treatment would not conflict with a valid and applicable ADRT.

2.4 Statutory Consultees

2.4.1 SOADs are required to consult two people (“statutory consultees”) before issuing certificates approving treatment. One of the statutory consultees must be a nurse; the other must not be either a nurse or a doctor. Both must have been professionally concerned with the patient’s medical treatment, and neither may be the clinician in charge of the proposed treatment or the responsible clinician (if the patient has one) (MHA Code 2015 (25.53)).

2.4.2 The Act does not specify who the statutory consultees should be, but they should be people whose knowledge of the patient and the patient’s treatment can help the SOAD decide whether the proposed treatment is appropriate. People who may be particularly well placed to act as statutory consultees include the patient’s care co-ordinator, if they have one, and, where medication is concerned, a mental health pharmacist who has been involved in any recent review of the patient’s medication (MHA Code 2015 (25.54)).

2.4.3 The statutory consultees whom the SOAD proposed to consult should consider whether they are sufficiently concerned professionally with the patient’s care to fulfil the function.
If not, or if a consultee feels that someone else is better placed to fulfil the function, they should make this known to the clinician in charge of the treatment and to the SOAD in good time (MHA Code 2015 (25.55)).

2.4.4 Statutory consultees may expect to have a private discussion with the SOAD and to be listened to with consideration. Among the issues that the consultees should consider commenting on are:

- the proposed treatment and the patient’s ability to consent to it;
- their understanding of the past and present views and wishes of the patient;
- other treatment options and the way in which the decision on the treatment proposal was arrived at;
- the patient’s progress and the views of the patient’s carers; and
- where relevant, the implications of imposing treatment on a patient who does not want it and the reasons why the patient is refusing treatment (MHA Code 2015 (25.56)).

2.4.5 If the SOAD wishes to speak to the statutory consultees face to face, the hospital should ensure that the SOAD is able to do so (MHA Code 2015 (25.57)).

2.4.6 SOADs should ensure that they make a record of their consultation with the consultees, which will then become part of the patient’s notes (MHA Code 2015 (25.58)).

2.4.7 SOADs should also be prepared, where appropriate, to consult a wider range of people who are concerned with the patient’s care than those required by the Act. These may include the patient’s GP and, unless the patient objects, the patient’s nearest relative, parents (where relevant), other family and carers, and any independent mental health advocate (or other advocate) representing the patient (MHA Code 2015 (25.59)).

2.5 The SOADs Decision and Reasons

2.5.1 Although appointed by the Care Quality Commission, SOADs act as independent professionals and must reach their own judgement about whether the proposed treatment is appropriate (MHA Code 2015 (25.60)).

2.5.2 When deciding whether it is appropriate for treatment to be given to a patient, SOADs are required to consider both the clinical appropriateness of the treatment to the patient’s mental disorder and its appropriateness in the light of all the other circumstances of the patient’s case (MHA Code 2015 (25.61)).

2.5.3 SOADs should:

- consider the appropriateness of alternative forms of treatment, not just that proposed;
- balance the potential therapeutic efficacy of the proposed treatment against the side-effects and any other potential disadvantages to the patient;
- seek to understand the patient’s views on the proposed treatment, and the reasons for them;
- give due weight to the patient’s views, including any objection to the proposed treatment and any preference for an alternative;
• take into account any previous experience of comparable treatment for a similar episode of disorder; and
• give due weight to the opinions, knowledge, experience and skills of those consulted (MHA Code 2015 (25.62)).

2.5.4 SOADs must provide written reasons in support of their decisions to approve specific treatments for patients. SOADS should provide reasons for what they consider to be the substantive points on which they made their clinical judgement. These reasons can be recorded on the certificate itself when it is given, or can be provided to the clinician in charge of the treatment separately as soon as possible afterwards (MHA Code 2015 (25.63)).

2.5.5 A certificate may be acted on even though the SOAD’s reasons have yet to be received, but if treatment does not need to begin immediately, it is preferable to wait until the reasons are received, especially if the patient is likely to be unhappy with the decision (MHA Code 2015 (25.64)).

2.5.6 When giving reasons, SOADs will need to indicate whether disclosure of the reasons to the patient would be likely to cause serious harm to the patient’s physical or mental health or to that of any other person (MHA Code 2015 (25.65)).

2.5.7 It is the personal responsibility of the clinician in charge of the treatment to communicate the results of the SOAD visit to the patient. This may be done in person or the task may be delegated to another doctor who is acting on behalf of the clinician in charge. In any event, the clinician must make a note in the running records that this has been done. (MHA Code 2015 (25.66)).

2.5.8 Any documents provided by the SOAD are part of the patient’s notes. The clinician in charge of the treatment should record their actions in providing patients with the reasons supplied by the SOAD (MHA Code 2015 (25.67)).

2.5.9 Every attempt should be made by the clinician in charge of the treatment and the SOAD to reach agreement. A generally sound plan need not be rejected as a whole because of a minor disagreement about one aspect of it (MHA Code 2015 (25.68)).

2.5.10 If SOADs are unable to agree with the clinician in charge of the treatment, they should inform the clinician personally, as soon as possible. It is good practice for SOADs to give reasons for their disagreement (MHA Code 2015 (25.69)).

2.5.11 Neither the SOAD or the approved clinician should allow a disagreement to prejudice the interests of the patient. If agreement cannot be reached, the position should be recorded in the patient’s notes by the clinician in charge of treatment in question, and the patient’s responsible clinician (if different) should be informed (MHA Code 2015 (25.70)).

2.5.12 The opinion given by the SOAD is the SOAD’s personal responsibility. There can be no appeal to the Care Quality Commission regarding the opinion (MHA Code 2015 (25.71)).

2.6 Status of Certificates under Part 4 and Part 4A

2.6.1 A certificate issued by an approved clinician or by a SOAD is not an instruction to administer treatment (MHA Code 2015 (25.72)). A CTO11 certificate may certify that treatment is appropriate to be given on recall of a community patient but does not instruct that treatment shall be given.
2.6.2 The fact that the SOAD has authorised a particular treatment does not mean that it will always be appropriate to administer it on any given occasion, or even at all. People administering the treatment (or directing its administration) must still satisfy themselves that it is an appropriate treatment in the circumstances (MHA Code 2015 (25.73)).

2.6.3 Those who administer the treatment also need to take reasonable steps to assure themselves that the treatment is, in fact, authorised by the certificate, given what is said in the certificate about the patient’s capacity and willingness to consent (MHA Code 2015 (25.74)).

2.6.4 Original signed certificates must be sent to the Mental Health Act administrator and a copy kept with the documents which authorise the patient’s detention or CTO. A copy of the certificate relating to medication must also be kept attached to the patients medicine chart (MHA Code 2015 (25.75)).

3.0 DEFINITIONS

- **SOAD (Second Opinion Appointed Doctor):** A medical practitioner who is appointed by the Care Quality Commission to review treatment for detained, CTO patients and in some cases young persons who are not detained under the MHA.

- **ADRT (Advance Decision To Refuse Treatment).** A decision made by an adult who has capacity to refuse specified medical treatment at a time in the future when he/she may lack capacity. The making of an ADRT was given a statutory framework by the Mental Capacity Act 2005.

4.0 DUTIES

4.1 Executive Directors, Clinical Directors and General Managers will be responsible for ensuring that local procedures are agreed for each Care Group they manage and that these are updated periodically.

5.0 TRAINING

5.1 Mental Health Act Training will address the role of the SOAD and responsibilities of the statutory consultees.

6.0 TARGET AUDIENCE

6.1 All staff who care for patients detained in hospital under the Mental Health Act 1983 or who are subject to a Community Treatment Order.

7.0 REVIEW DATE

7.1 Review of this policy will commence 3 years after implementation or in light of legislative or organisational change.

8.0 CONSULTATION

8.1 Executive Leadership Council (ELC)

9.0 MONITORING COMPLIANCE
9.1 The Care Quality Commission visits each unit, periodically, to check if the Trust is complying with the law. The CQC reports once published require an action plan from the ward manager. Action plans are scrutinised within the Governance structure.

9.2 An internal audit of notes will be carried out annually to check for compliance with the Act.

10.0 EQUALITY IMPACT ASSESSMENT

10.1 This policy has been assessed using the Equality Impact Assessment Screening Tool. The assessment concluded that the policy, properly followed, would have no adverse impact on individuals from any of the nine protected characteristics in the Equality Act 2010 namely age, disability gender, sexual orientation gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief.

11.0 LEGISLATION COMPLIANCE

11.1 This policy must be read in conjunction with Chapter 25 of the Mental Health Act Code of Practice 2015.

12.0 CHAMPION AND EXPERT WRITER

12.1 The Champion of this policy is Julie Hankin, Executive Medical Director. The Expert Writer is Michael Sergeant MHA/MCA/DOLS Lead (Local Services Division)

13.0 REFERENCES/SOURCE DOCUMENTS

# PROCEDURE FOR ARRANGING A SOAD VISIT

## CERTIFICATE OF SECOND OPINION

Where the law requires the clinician to obtain a SOAD opinion from the Care Quality Commission:

- The form should be completed online.
  - [https://webdataforms.cqc.org.uk/Checkbox/SOAD.aspx](https://webdataforms.cqc.org.uk/Checkbox/SOAD.aspx)

### a) The SOAD will contact the ward directly to arrange a date and time to visit a detained patient and speak to the patient’s RC and two other professionals involved in the patient’s care. For Forensics patients, the SOAD will contact the Rampton/Arnold Lodge/Wathwood/Wells Road MHA administrators. OR in the case of community patients:

#### b) The SOAD will contact the care co-ordinator directly to arrange for the patient who is under SCT to be brought to a mutually agreed venue. The SOAD will need to speak to the patient’s RC and two other professionals involved in the patient’s care.

**Named Nurse/Key worker/Care Co-ordinator to arrange:**

- the attendance of another professional involved in the patient’s care e.g. Social Worker, Occupational Therapist, Psychologist, Pharmacist, CPN
- attendance of the patient’s RC
- copy of current section papers are in the patient’s healthcare records
- the patient’s healthcare records are available
- the current medication chart is available
- a blank SOAD certificate is available
- a copy of the treatment plan is available

**Named Nurse/Key worker to take two photocopies of the SOAD certificate and send the original to the Mental Health Act Administrator. One copy to be placed in the healthcare records alongside a copy of the section papers and the second copy to be attached to the medication chart.**
Arranging a Second Opinion Appointed Doctor (SOAD) Visit – 8.10

APPENDIX 2

SOAD VISIT

NAMED NURSE/CARE CO-ORDINATOR CHECKLIST

Patient’s Name: __________________________________________________________

Section: __________________________________________________________

1. Is the date and time of SOAD’s proposed visit documented? ☐

2. Has the patient’s RC been informed of the date and time in order to attend? ☐

3. Has another person professionally involved with the care of the patient been informed of the visit, assessed the patient, and able to attend? ☐

4. Are the healthcare records, the medication chart and a copy of the treatment plan available for the SOAD? ☐

5. Is a copy of the current section papers in the patient’s healthcare records? ☐

6. Is there a blank certificate for the SOAD to use? ☐

7. Have two copies of the SOAD certificate been taken - to place in the healthcare records and attached to the medication chart? ☐

8. Has the original SOAD certificate been sent to the Mental Health Act Administrator? ☐
### EQUALITY IMPACT ASSESSMENT (EIA) SCREENING TOOL

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<th>8.10 ARRANGING A SECOND OPINION APPOINTED DOCTOR (SOAD) VISIT</th>
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| Brief description of policy/procedure/strategy/plan/function etc and reason for EIA: | This policy/procedure relates to the arrangements that need to be made when arranging for a Second Opinion Appointed Doctor (SOAD) to review a patient’s treatment when this is required by the Mental Health Act.  
This policy also relates to patients who have been discharged from detention in hospital under a Community Treatment Order. |
| Names and designations of EIA group members: | Michael Sergeant MHA/MCA Lead Local Services Division  
Jaswinder Basi CPA & MHA Manager.  
Julie Harris MHA Team Leader |
<p>| List of key groups/organisations consulted | Executive Leadership Council |
| Data, Intelligence and Evidence used to conduct the screening exercise | Mental Health Act Code of Practice, Reference Guide to the Mental Health Act |</p>
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<th>Equality Strand</th>
<th>Does the proposed policy/procedure/ strategy/ plan/ function etc have a positive or negative (adverse) impact on people from these key equality groups? Please describe</th>
<th>Are there any changes which could be made to the proposals which would minimise any adverse impact identified? What changes can be made to the proposals to ensure that a positive impact is achieved? Please describe</th>
<th>Have any mitigating circumstances been identified? Please describe</th>
<th>Areas for Review/Actions Taken (with timescales and name of responsible officer)</th>
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<td>This policy aims to have a positive impact on any member of the wider community. Consequently the Trust as a public authority must, in the exercise of its functions, have due regard to the need to a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010 in regard to the nine protected characteristics in the Equality Act 2010 (age, disability gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex, sexual orientation). The policy must be read in the context of the statement of guiding principles found in Chapter 1 of the Mental Health Act Code of Practice</td>
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Arranging a Second Opinion Appointed Doctor (SOAD) Visit

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*¹ for Social Inclusion please consider any issues which contribute to or act as barriers, resulting in people being excluded from society e.g. homelessness, unemployment, poor educational outcomes, health inequalities, poverty etc

*² Community Cohesion essentially means ensuring that people from different groups and communities interact with each other and do not exclusively live parallel lives. Actions which you may consider, where appropriate, could include ensuring that people with disabilities and non-disabled people interact, or that people from different areas of the City or County have the chance to meet, discuss issues and are given the opportunity to learn from and understand each other.


Conclusions and Further Action (including whether a full EIA is deemed necessary and agreed date for completion)

This policy has been assessed using the Equality Impact Assessment Screening Tool. The assessment concluded that the policy, properly followed, would have no adverse impact on any of the nine protected characteristics in the Equality Act 2010 (age, disability gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex, sexual orientation).

Screening Tool Consultation End Date

22/12/2016 EIA reviewed, no amendments required.

Name of Equality and Diversity (E&D) Group Approving EIA (i.e. Directorate E&D Group, Divisional E&D Forum or Trustwide E&D Steering Group)

Equality and Diversity Sub-Committee of the Board of Directors.

Name of Responsible Officer Name and Contact Details (tel. e-mail, postal)

Michael Sergeant
Mental Health Act/Mental Capacity Act Lead (Local Services)
e-mail: michael.sergeant@nottshc.nhs.uk
Postal: Mental Health Act Department, Duncan Macmillan House, Porchester Road, Mapperley, Nottingham NG3 6AA
Policy/Procedure for: ARRANGING A SECOND OPINION APPOINTED DOCTOR (SOAD) VISIT

Issue: 07

Status: APPROVED

Author Name and Title: Michael Sergeant MHA/MCA/DOLS Lead (Local Services Division)

Issue Date: RE-ISSUED: 01 FEBRUARY 2017

Review Date: DECEMBER 2019

Approved by: EXECUTIVE LEADERSHIP TEAM (04/01/2017)

Distribution/Access: NORMAL

RECORD OF CHANGES

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<td>20/11/13</td>
<td>M Sergeant</td>
<td>8.10 (Issue 3)</td>
<td>Revisions made with some additions throughout the document.</td>
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<td>01/2017</td>
<td>M Sergeant</td>
<td>8.10 (Issue 6)</td>
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