



# Mental Health Units (Use of Force) Act 2018

## 2018 CHAPTER 27

### *Reporting*

#### **6 Recording of use of force**

- (1) The responsible person for each mental health unit must keep a record of any use of force by staff who work in that unit in accordance with this section.
- (2) Subsection (1) does not apply in cases where the use of force is negligible.
- (3) Whether the use of force is “negligible” for the purposes of subsection (1) is to be determined in accordance with guidance published by the Secretary of State.
- (4) Section 11(3) to (6) apply to guidance published under this section as they apply to guidance published under section 11.
- (5) The record must include the following information—
  - (a) the reason for the use of force;
  - (b) the place, date and duration of the use of force;
  - (c) the type or types of force used on the patient;
  - (d) whether the type or types of force used on the patient formed part of the patient’s care plan;
  - (e) name of the patient on whom force was used;
  - (f) a description of how force was used;
  - (g) the patient’s consistent identifier;
  - (h) the name and job title of any member of staff who used force on the patient;
  - (i) the reason any person who was not a member of staff in the mental health unit was involved in the use of force on the patient;
  - (j) the patient’s mental disorder (if known);
  - (k) the relevant characteristics of the patient (if known);
  - (l) whether the patient has a learning disability or autistic spectrum disorders;

- (m) a description of the outcome of the use of force;
  - (n) whether the patient died or suffered any serious injury as a result of the use of force;
  - (o) any efforts made to avoid the need to use force on the patient;
  - (p) whether a notification regarding the use of force was sent to the person or persons (if any) to be notified under the patient's care plan.
- (6) The responsible person must keep the record for 3 years from the date on which it was made.
- (7) In subsection (5)(g) the "patient's consistent identifier" means the consistent identifier specified under section 251A of the Health and Social Care Act 2012.
- (8) This section does not permit the responsible person to do anything which, but for this section, would be inconsistent with—
- (a) any provision of the data protection legislation, or
  - (b) a common law duty of care or confidence.
- (9) In subsection (8) "the data protection legislation" has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act).
- (10) In subsection (5)(k) the "relevant characteristics" in relation to a patient mean—
- (a) the patient's age;
  - (b) whether the patient has a disability, and if so, the nature of that disability;
  - (c) the patient's status regarding marriage or civil partnership;
  - (d) whether the patient is pregnant;
  - (e) the patient's race;
  - (f) the patient's religion or belief;
  - (g) the patient's sex;
  - (h) the patient's sexual orientation.
- (11) Expressions used in subsection (10) and Chapter 1 of Part 2 of the Equality Act 2010 have the same meaning in that subsection as in that Chapter.

## **7 Statistics prepared by mental health units**

- (1) The Secretary of State must ensure that at the end of each year statistics are published regarding the use of force by staff who work in mental health units.
- (2) The statistics must provide an analysis of the use of force in mental health units by reference to the relevant information recorded by responsible persons under section 6.
- (3) In subsection (2) "relevant information" means the information falling within section 6(5)(b), (c), (k), (l) and (n).

## **8 Annual report by the Secretary of State**

- (1) As soon as reasonably practicable after the end of each calendar year, the Secretary of State—
  - (a) must conduct a review of any reports made under paragraph 7 of Schedule 5 to the Coroners and Justice Act 2009 that were published during that year relating to the death of a patient as a result of the use of force in a mental health unit by staff who work in that unit, and

- (b) may conduct a review of any other findings made during that year relating to the death of a patient as a result of the use of force in a mental health unit by staff who work in that unit.
- (2) Having conducted a review under subsection (1), the Secretary of State must publish a report that includes the Secretary of State's conclusions arising from that review.
- (3) The Secretary of State may delegate the conduct of a review under subsection (1) and the publication of a report under subsection (2).
- (4) For the purposes of subsection (1)(b) "other findings" include, in relation to the death of a patient as a result of the use of force in a mental health unit, any finding or determination that is made—
  - (a) by the Care Quality Commission as the result of any review or investigation conducted by the Commission, or
  - (b) by a relevant health organisation as the result of any investigation into a serious incident.