

The Mental Health (National Secure Adolescent Inpatient Service: Miscellaneous Amendments) (Scotland) Regulations 2023

Equality Impact Assessment Results

October 2023

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Title of policy	The Mental Health (National Secure Adolescent Inpatient Service: Miscellaneous Amendments) (Scotland) Regulations 2023
Summary of aims and desired outcomes of Policy	To ensure that certain safety and security measures can be applied to patients detained in Foxgrove and also provide patients with the right to contest the level of security under which they are detained.
Directorate: Division: Team	Directorate for Mental Health, Mental Health Division, Children, Young People, Families and Relationships

Executive Summary

The Scottish Government is making amendments to include the National Secure Adolescent Inpatient Service (NSAIS), also known as “Foxgrove” to the following existing regulations:

- The Mental Health (Safety and Security) (Scotland) Regulations 2005 (“the 2005 Regulations”) and
- The Mental Health (Detention in Conditions of Excessive Security) (Scotland) Regulations 2015 (“the 2015 Regulations”)

The changes mean that the same safety and security measures, subject to protections and safeguards, that are available in other medium secure inpatient settings can be applied where necessary in the NSAIS. Children and young people detained in the NSAIS will also have the same right of appeal against detention in conditions of excessive security as those detained in other medium secure inpatient settings.

The EQIA process has enabled the Scottish Government to consider how this change would impact on children and young people who will be detained in NSAIS. We are satisfied that this approach will not impact negatively on children, young people and any of the protected characteristics assessed.

Background

The NSAIS is the first medium secure mental health inpatient service for children and young people in Scotland. It is expected to open in January 2024.

The NSAIS will initially have 4 beds. Its purpose will be to deliver high quality mental health care and treatment for children and young people aged between 12 and 17 years, who meet all of the following criteria:

- are subject to measures for compulsory care and treatment under the

Mental Health (Care and Treatment) (Scotland) Act 2003 (“the 2003 Act”) or part VI of the Criminal Procedure (Scotland) Act 1995 (“the 1995 Act”)

- have a mental disorder (as defined by section 328 of the 2003 Act)
- present a significant risk to themselves or other people
- require a medium secure level of security in order to meet their needs.

The significant risk of harm, either to themselves or to other people, that patients in medium secure services present means such services must have an adequate level of safety and security measures to ensure the safety of both patients and those involved in their care and security or good order of the hospital.

The Scope of the EQIA

This EQIA gives consideration to the impact of the introduction of these regulations on children and young people who are detained in the NSAIS.

Key Findings

Officials have carefully considered the Equality Impact Analysis alongside consultation responses from stakeholders, particularly around the issue of age. In our view, there is no reasonable justification as to why young people admitted to the National Secure Adolescent Inpatient Service (NSAIS) should not be provided the right to appeal conditions of excessive security. In keeping with Section 2 principles of the 2003 Act, children and young people should be afforded the same right as others detained in the same level of security setting. Ensuring the service is able to implement the safety and security measures to all in the NSAIS helps facilitate a secure and effective care environment for both patients and those involved in their care and for the security and good order of the hospital. The measures will be applied when necessary, and they will be proportionate to the potential risk. There are safeguards on the application of the measures each time they are used. These include the general conditions on the use of the measures, set out in regulation 5, as well as the specific conditions set out in the remainder of the 2005 Regulations. Section 2 of the 2003 Act on the welfare of the child applies to all its sections and their associated regulations. Therefore the welfare of the child, and the principles of least restriction and of patient participation are of particular importance in the implementation of these regulations and should mitigate against any adverse impacts on children and young people as a result of their age.

NHS Ayrshire and Arran will monitor the application of these regulations and the NSAIS admissions. Scottish Government officials will work with NHS Ayrshire and Arran to ensure appropriate monitoring of the protected characteristics of patients with a view to ensuring there are no adverse impacts or disproportionate admissions of particular groups, although it should be noted that with only 4 beds, it may take some time for patterns to be established. The Mental Welfare Commission (MWC) also has an interest in

monitoring application of the regulations, and Ministers can request to see information about how these are being applied. Specifically, the Regulations require hospital managers to maintain records of how often and why the regulations have been implemented. Scottish Ministers also have the right to request a statement from the managers of a qualifying hospital on how the measures and the general conditions:

- Have been implemented in a hospital during a period specified by the request from Ministers.
- Are being implemented at the time of the request.
- How the hospital managers propose to implement the measures after the timeframe specified by Ministers in their request.

In addition, these records are to be made available for inspection by the MWC, and copies provided to them when requested. Regulations provide the MWC with the power, after reviewing the implementation of the regulations in respect of any patient, to prohibit their implementation for a period of up to 6 months except under the supervision or with the permission of the MWC.

Recommendations and Conclusion

There is currently no evidence to suggest that the regulations would have a direct negative impact on any of the protected characteristics. As the regulations do not create any new enforcement or monitoring mechanisms and simply apply the existing mechanisms to Foxgrove, a reasonably “light touch” assessment was required.



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The Scottish Government
St Andrew's House
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ISBN: 978-1-83521-465-7 (web only)

Published by The Scottish Government, October 2023

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA
PPDAS1366102 (10/23)

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