

APPENDIX 2

Human Rights Act

1. Article 8 of the European Convention on Human Rights states that everyone has the right to respect for his private and family life. There shall be no interference by a public authority except such as is in accordance with the law and is necessary in a democratic society for the protection or health and morals or for the protection of the rights and freedoms of others. Private life includes sexual life for these purposes.
2. The decision to prohibit sexual activity on Trust premises is considered by the Trust to be necessary and proportionate, to ensure that patients are supervised properly; that patients are treated in a safe and therapeutic environment; and to allow the Trust to manage its premises appropriately for all patients and staff. A patient's right to private life is not completely prevented by this guidance as Section 17 leave is available for patients lawfully detained under the Mental Health Act.
3. Article 10 protects the right to freedom of expression. This is not an absolute right. Interference with this right may be permitted in some circumstances.
4. Article 12 protects the right to marry and found a family according to national laws governing this right. This can be supported and facilitated for people detained under the Mental Health Act as the ceremony can take place in the hospital. If the clinical team is concerned about capacity to consent, a 'caveat' by way of a letter to the registrar or clergy, could be indicated. Any attempt to prevent a marriage would need to be proportionate and justified. However, the right to marry does not automatically confer a right to consummation of the marriage.