

The Royal Children's Hospital	Banksia Ward	No:
Sexual activity between clients – reported or observed		Issue Date: 30.8.13
		Revision No:
		Revision Date:
		Page 1 of 3

1. Purpose and Scope

The purpose of the guideline is to ensure clear roles and functions for Banksia Ward staff in the event of suspected sexual activity between clients on the Banksia Ward.

Specific aims are to:

- a) Describe the circumstances in which sexual activity may be reported
- b) Ensure a timely response that reflects the physical, emotional and clinical implications of the incident for the client(s)
- c) Describe escalation to involve senior staff of Banksia Ward
- d) Assist in the effective documentation and investigation of reported incidents

A report of sexual activity may be made by a young person involved, by another Banksia client or a third party such as a family member. The report may be conveyed to any member of Banksia staff in spoken or written form.

Clients of Banksia Ward have psychiatric disorders which may affect decision-making, emotions and behaviour to differing degrees. They are typically vulnerable owing to impaired competence however this will vary from client to client, may fluctuate during an admission, and may affect competence for decision-making in some situations and not others. Some clients have experienced sexual abuse and others may have thought disturbances with a direct bearing on sexual topics, or difficulties in distinguishing thoughts and reality.

2. Definition of terms

- Reported sexual activity – physical contact of a sexual nature involving two or more clients occurring on the Banksia Ward
- Banksia clients – current inpatients of Banksia Ward
- Sexual assault – Behaviour of a sexual nature that is unwarranted, making the victim feel uncomfortable and afraid. This includes rape, abuse, harassment and indecent assault. This behaviour can take various forms including unwelcome kissing or touching in the areas of a person's breasts, buttocks or genitals. Indecent assault can also include behaviour that does not include actual touching, such as forcing a person to watch pornography or masturbation.

The Royal Children's Hospital	Banksia Ward	No:
Procedure following reported or observed sexual activity between clients		Issue Date: 30.8.13
		Revision No:
		Revision Date:
		Page 2 of 3

3. Principles

- a) Sexual activity is not appropriate in a therapeutic inpatient setting and is not acceptable on the Banksia Ward
- b) Whilst the information available initially may be limited, it is important to act promptly in order to minimise risk and address the implications
- c) Reports of sexual activity made by any clients should be taken seriously, regardless of their underlying condition
- d) Distress or clinical deterioration in the hours and days following such an incident can be expected
- e) A determination of competence is required to inform initial conclusions about consent and the need to inform guardians or other family members
- f) Decision-making is complex and it is essential that the NUM and Consultant Psychiatrist are made aware of the report as soon as possible, and a VHIMS Incident report made

4. Procedure

The following steps should be followed where sexual activity is observed by, or reported to a staff member:

- If sexual activity is observed, the staff member will request that it cease immediately
- g) Staff member documents the observed or reported events as accurately as possible in the client's clinical file. Where a report is made by a client, the initial staff response should be to validate the person's experience. Note that the description of the incident may change over time, for example with greater detail being provided
- Staff member informs the Shift Leader who will ensure NUM and Consultant Psychiatrist are informed
- Interviews of the clients with two staff members are scheduled within four hours of the report to confirm details of the incident, to address specific

health issues that may be pertinent, to undertake mental state examination and specifically an assessment of risk, and to seek to clarify degree of competence and capacity for decision-making.

- The mental state examination will include evaluation of:
 - a) The client's capacity to make informed judgements and give informed consent about their healthcare.
 - b) The client's capacity to understand the process of reporting an allegation to the police, and what it might mean for them.
 - c) The client's capacity to process and communicate information and effectively exercise their rights.
 - d) The client's suitability to attend for police interview and any likely detrimental effects on their mental health.
 - e) The client's capacity to collaborate with an investigation.
 - f) The required resources and supports to assist the client.

- The determination of consent must be documented, both regarding the incident(s) and the response of Banksia Ward staff
- A medical examination to determine immediate medical needs should be undertaken by medical staff, including screening for sexually transmitted diseases and discussion of pregnancy testing, where appropriate
- Corroborative information should be sought by interview with other involved clients
- As a general rule, for clients aged 16 years or younger, guardians should be informed of the report, on the same day and preferably following the interview (above)
- A VHIMS Report is instigated by the staff member with assistance from the Shift Leader
- The incident is reviewed in the next RCH Mental Health Clinical Quality Meeting with particular reference to the implications for procedures and staff information and training
- Any instance of known or suspected sexual activity between staff and a patient should be reported to NUM or Director or Executive Director
- Where an involuntary patient has been assessed by the Authorised Psychiatrist and the patient does not have capacity to make informed decisions in relation to an incident of sexual assault, the Authorised Psychiatrist has a duty of care to report the allegation to police.
- Where an involuntary patient has been assessed and the patient does have capacity, the patient's wishes must be respected. The Authorised Psychiatrist should however take the necessary steps to protect the patient's interests should they change their mind over time.
- Staff members should assist police to conduct their investigations and make themselves available as appropriate.

Suspected Sexual Assault

- **The safety, physical and psychological needs of the patient, and their preferences about the management of the allegation, are of paramount consideration**
- **Where there is suspicion of sexual assault, Victoria Police SOCIT (Sexual Offences and Child Abuse Investigation Team ph 9247 5538) must be informed immediately, unless the client is determined to be competent, over 15 years of age and refuses such**

steps. If the suspected assault was recent, a briefing with Victoria Police should occur to establish the approach to possible crime scene and witnesses

- **The Authorised Psychiatrist and Director must be informed of all allegations of sexual assault**
- **Where sexual assault is alleged, the client should be informed that their medical needs are the first priority. The client should be informed also of the available supports including counselling through Gatehouse Centre, the right to privacy and confidentiality, their decision on whether to involve the police**
- **The client should be asked whether he/she requests that a report to police be made**
- **If requested, or there is doubt about whether a report will be made, Victoria Police Melbourne SOCIT should be consulted. 000 should be called if no answer.**
- **Where a forensic medical examination may be required, the client should be informed that VFPMS will be consulted**
- **Psychological support must be made available to all of those affected where a sexual assault has been alleged i.e. victim, other clients, staff and family/carers**

Role of Authorised Psychiatrist

- All allegations of sexual assault should be reported to police where an assault is known or suspected to have occurred. However, in acute mental health settings there may be some occasions where clinical judgement will need to be exercised. For example – where a client does not wish to involve the police, or where an allegation appears related to a person's mental state or condition. It is the Authorised Psychiatrist's role to determine reporting in these instances, on a case-by-case basis. If in doubt the Authorised Psychiatrist should discuss the matter with police.
- Factors for the Authorised Psychiatrist to consider in these circumstances are: the client's wishes, current mental status, past history, carer, guardian or advocate view.
- If the client wishes to report the incident to police then this is to be facilitated by staff and the necessary support services enlisted (family, case manager, Gatehouse etc) The Authorised Psychiatrist should notify the police and facilitate their investigation.
- If the client does NOT want police involvement but there is information to support an allegation of sexual assault, then the client's choice should be uppermost. The Authorised Psychiatrist has a duty of care to consider and act in the client's best interests. Where an involuntary patient does not have capacity to consent to police notification the Authorised Psychiatrist has an obligation to report this matter to the police. Where an involuntary patient DOES have capacity to consent (following assessment by the Authorised Psychiatrist) then their wishes are to be respected. Steps to protect their interests should they change their mind over time must be taken. This may involve the psychiatrist ensuring the incident is well documented and any objective evidence is collected and preserved should the client wish to proceed at a later date. All actions are to be fully communicated to the consumer. Referral to Gatehouse or other agency is recommended in these circumstances.

- The Authorised Psychiatrist will notify the Office of the Chief Psychiatrist of any allegation of sexual assault on Banksia Ward.

These guidelines should be read in conjunction with the Chief Psychiatrist's Guidelines:

Promoting sexual safety, responding to sexual activity, and managing allegations of sexual assault in adult acute inpatient units.

[http://docs.health.vic.gov.au/docs/doc/CF5BDE7382068193CA257A14001B2D94/\\$FILE/inpatient_sexualsafety_cpg_glines.pdf](http://docs.health.vic.gov.au/docs/doc/CF5BDE7382068193CA257A14001B2D94/$FILE/inpatient_sexualsafety_cpg_glines.pdf)

We gratefully acknowledge the use of elements of the Eastern Health Policy "Promoting sexual safety and responding to sexual activity in MHTPAD areas"

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Reviewed:	Date: