



# The searching of service users and environments

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Type of document	Policy
Target audience	All clinical staff
Document purpose	The purpose of this policy is to give CWP staff necessary guidance which promote safe environments and recovery principles in compliance with European and Health Law

Approving meeting	Health Safety and Wellbeing Sub Committee	14/12/2017
Implementation date	20/02/2018	

CWP documents to be read in conjunction with	
<a href="#">HR6</a>	Trust-wide learning and development requirements including the training needs analysis (TNA)
<a href="#">CP6</a>	The Management of Challenging Behaviour, Violence and Aggression
<a href="#">GR8</a>	Security policy
<a href="#">GR1</a>	Incident Reporting and Management
<a href="#">GR37</a>	The Management of Illicit Substances
<a href="#">CP25</a>	The Therapeutic Observation policy
<a href="#">CP10</a>	Safeguarding adult's policy
<a href="#">CP40</a>	Safeguarding children's policy
<a href="#">MH</a>	Mental Health Act policies
<a href="#">CC37</a>	Chaperone policy

Document change history	
What is different?	Page 10 – 3.4 Consent refusal – Paragraph reworded. Page 10 - 3.5 Removal of a person clothes – Paragraph reworded. Quick reference flowcharts added. Inclusion of hand held devices into search procedure Inclusion of FREDAs principles into search procedures
Appendices / electronic forms	N/A
What is the impact of change?	Improve clarity and understanding related to legal duty for all CWP staff

Training requirements	Yes – Staff training will be through existing EDCWP Management of Violence and Aggression training courses, reported through PODSC
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Financial resource implications	No
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External references	
1.	Article 8 - European Convention on Human Rights; a persons right to be treated with dignity and respect and the need for maximum privacy through any invasive procedure
2.	Mental Health Act Code Of Practice (2015)

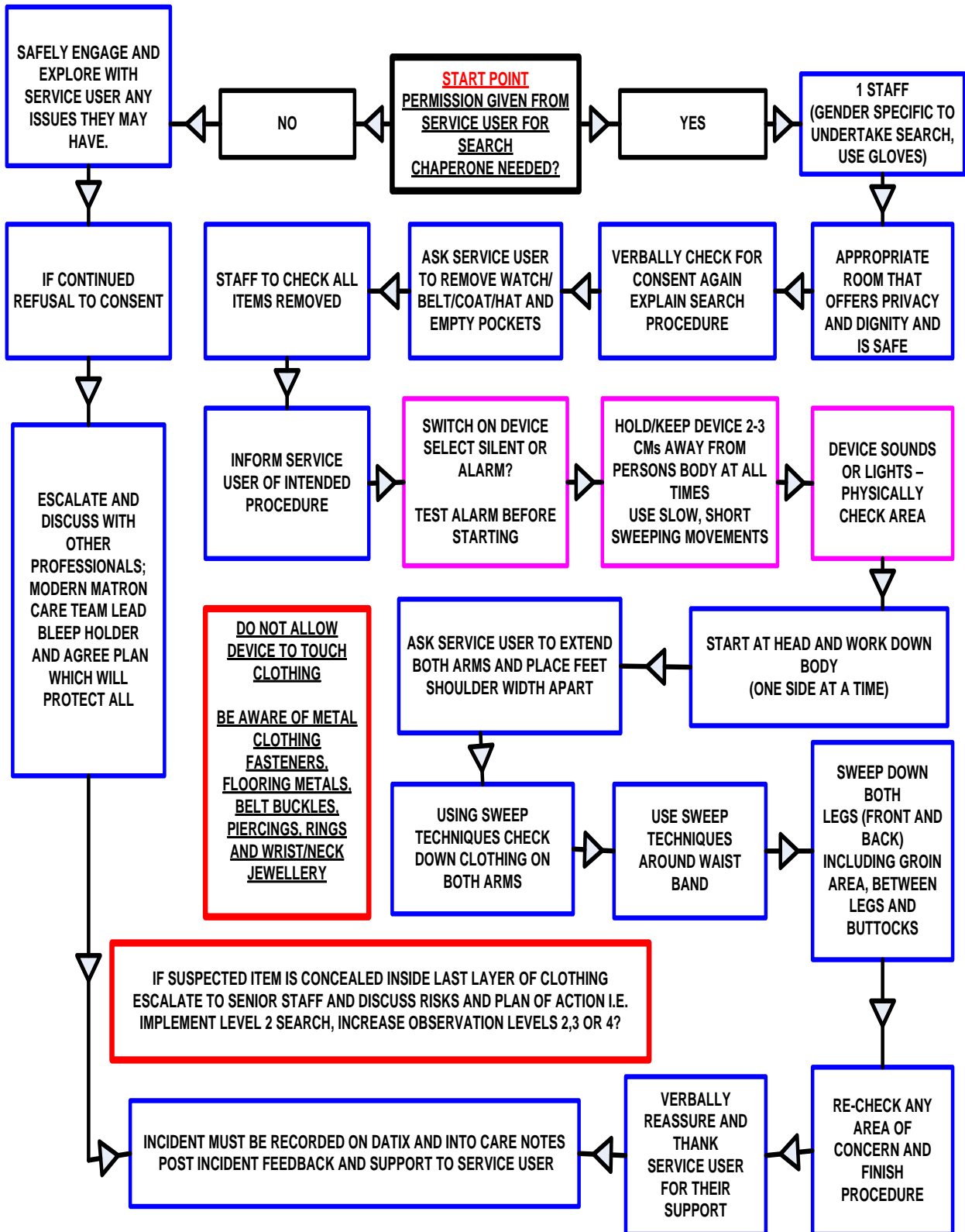
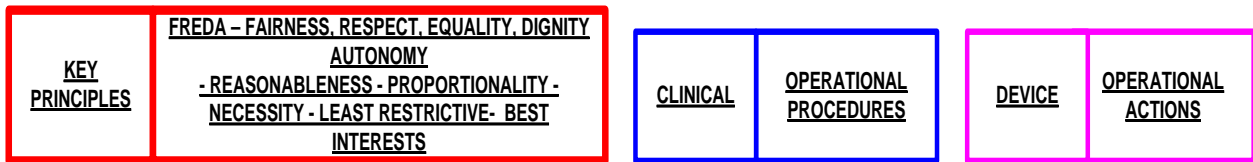
3. [http://www.legislation.gov.uk/ukpga/2010/15/pdfs/ukpga\\_20100015\\_en.pdf](http://www.legislation.gov.uk/ukpga/2010/15/pdfs/ukpga_20100015_en.pdf)
4. <http://www.equalityhumanrights.com/advice-and-guidance/public-sector-duties>
5. [http://www.equalities.gov.uk/equality\\_act\\_2010/public\\_sector\\_equality\\_duty.aspx](http://www.equalities.gov.uk/equality_act_2010/public_sector_equality_duty.aspx)
6. <http://www.equalityhumanrights.com/legal-and-policy/equality-act/equality-act-codes-of-practice/>
7. [http://www.legislation.gov.uk/ukpga/2010/15/pdfs/ukpga\\_20100015\\_en.pdf](http://www.legislation.gov.uk/ukpga/2010/15/pdfs/ukpga_20100015_en.pdf)

<b>Equality Impact Assessment (EIA) - Initial assessment</b>	<b>Yes/No</b>	<b>Comments</b>
Does this document affect one group less or more favourably than another on the basis of:		
• Race	No	
• Ethnic origins (including gypsies and travellers)	No	
• Nationality	No	
• Gender	No	
• Culture	No	
• Religion or belief	No	
• Sexual orientation including lesbian, gay and bisexual people	No	
• Age	No	
• Disability - learning disabilities, physical disability, sensory impairment and mental health problems	No	
Is there any evidence that some groups are affected differently?	No	
If you have identified potential discrimination, are there any exceptions valid, legal and/or justifiable?		
Is the impact of the document likely to be negative?	No	
• If so can the impact be avoided?	N/A	
• What alternatives are there to achieving the document without the impact?	N/A	
• Can we reduce the impact by taking different action?	N/A	
Where an adverse or negative impact on equality group(s) has been identified during the initial screening process a full EIA assessment should be conducted.		
If you have identified a potential discriminatory impact of this procedural document, please refer it to the human resource department together with any suggestions as to the action required to avoid / reduce this impact. For advice in respect of answering the above questions, please contact the human resource department.		
Was a full impact assessment required?	No	
What is the level of impact?	Low	

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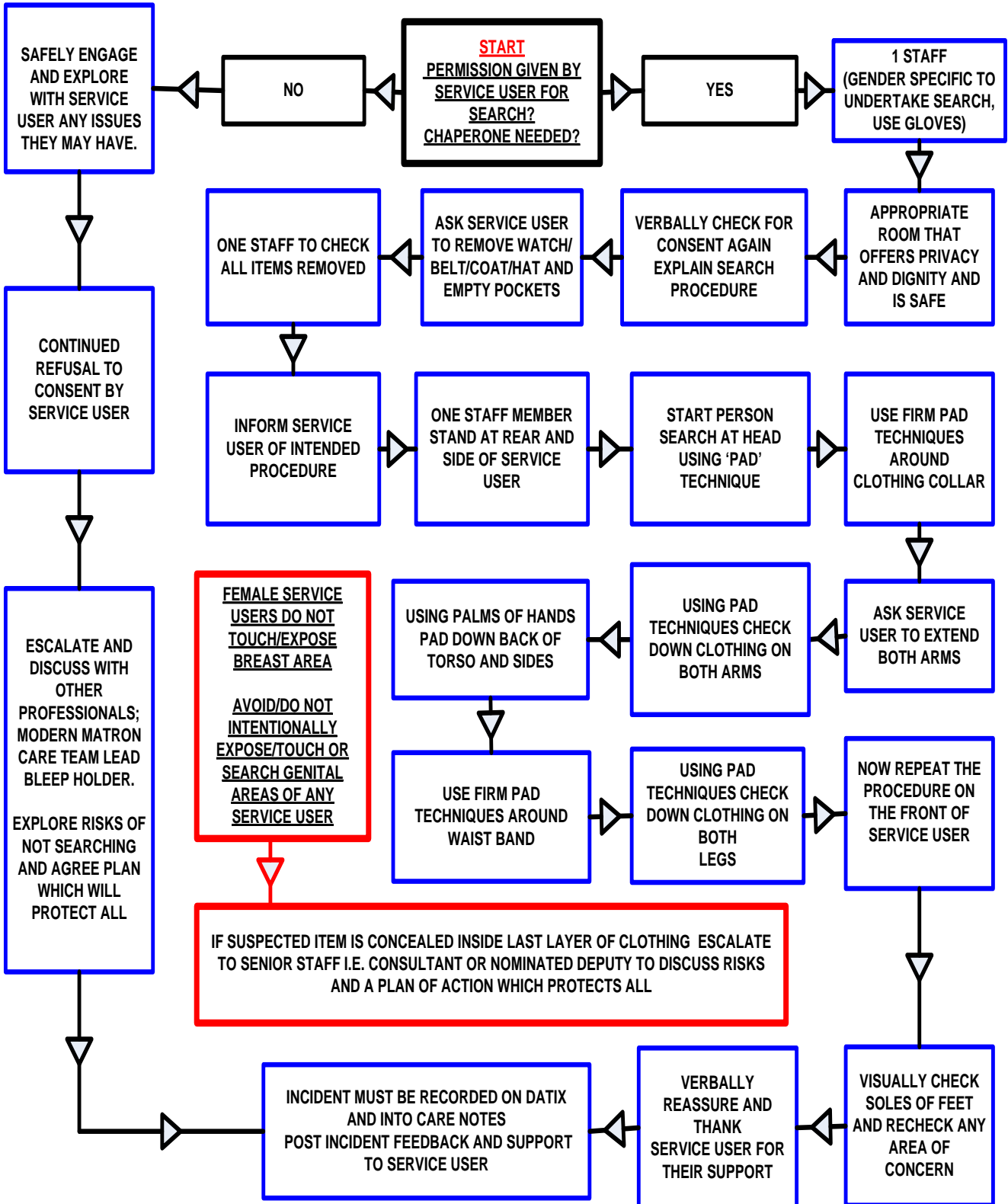
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## Quick reference flowchart 1 – Level 1 - Search technique using hand held detection device

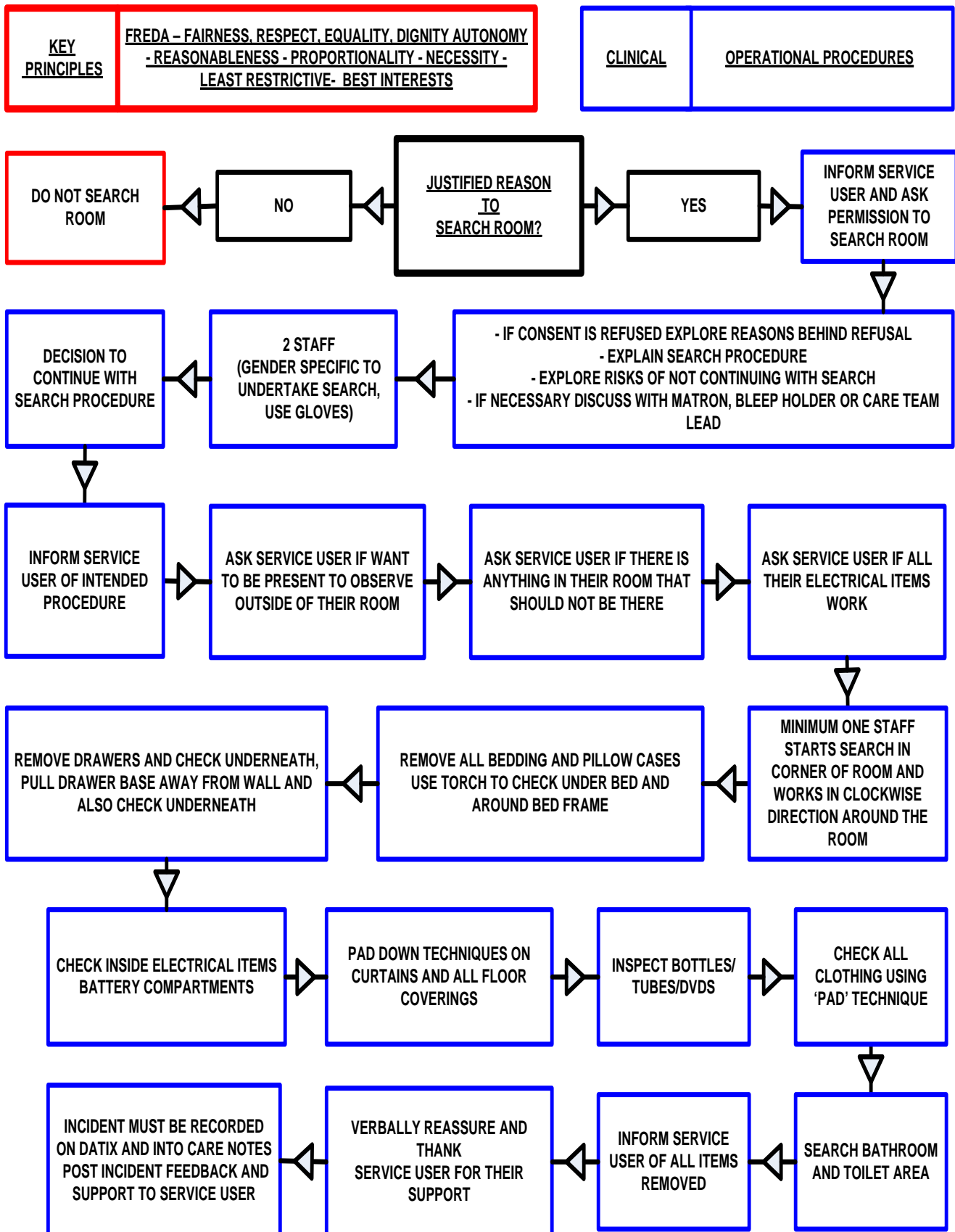


Quick reference flowchart 2 - Level 2 - Person search protocol

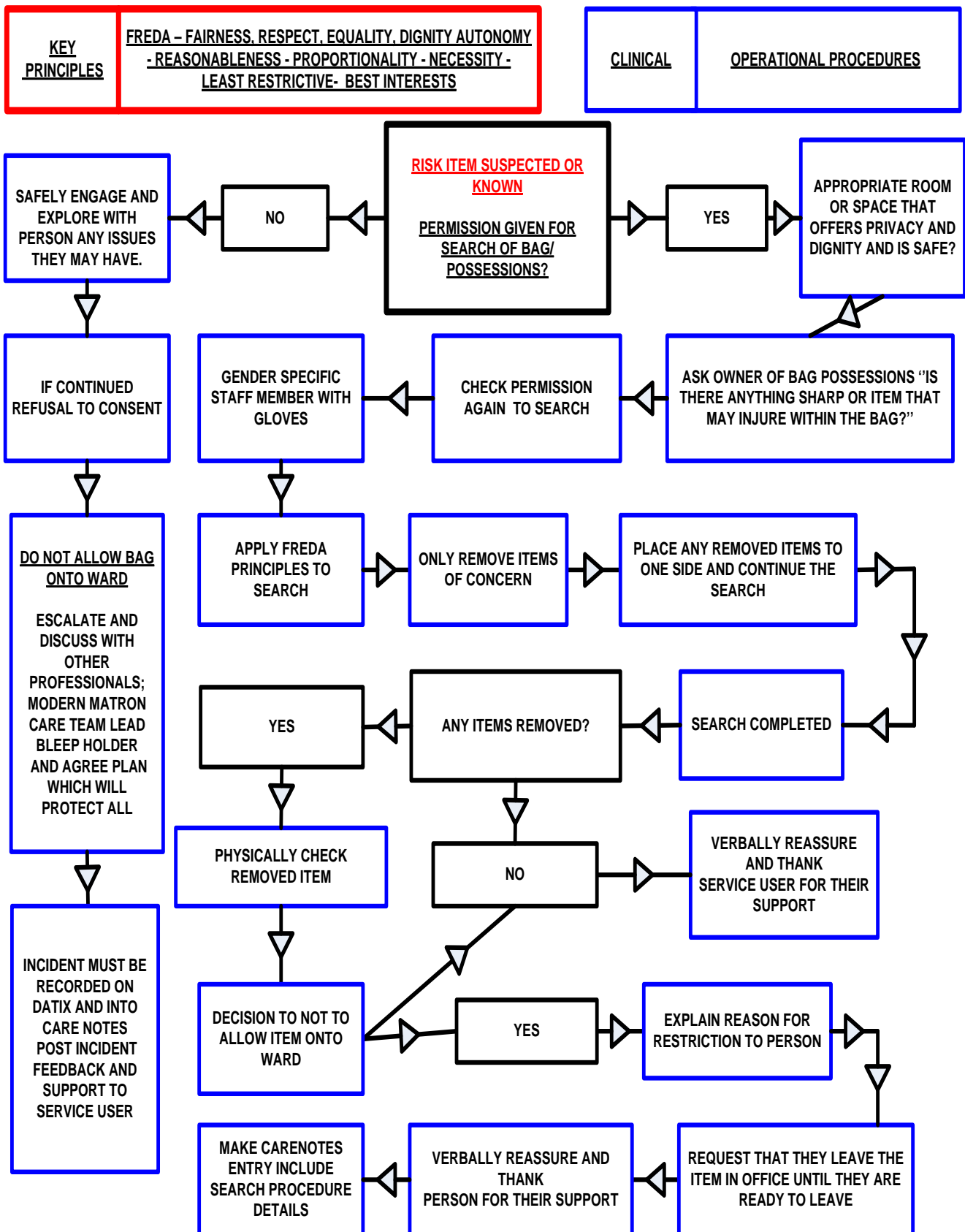
<b>KEY PRINCIPLES</b>	<b>FREDA – FAIRNESS, RESPECT, EQUALITY, DIGNITY AUTONOMY - REASONABLENESS - PROPORTIONALITY - NECESSITY - LEAST RESTRICTIVE- BEST INTERESTS</b>	<b>CLINICAL</b>	<b>OPERATIONAL PROCEDURES</b>
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### Quick reference flowchart 3 - Room Search protocol



Quick reference flowchart 4 - Bag search protocol



## 1. Introduction

It is recognised by the CWP Trust that a safe environment for service users, visitors and staff is essential to deliver the highest possible standards of care. To achieve this aim the organisation is committed to implementing procedures which may involve the physical searching of people, belongings and environments. It is important that any decision taken which involves searching that all persons are fully informed and kept safe at all times.

### Policy key principles;

- To create and maintain safe and therapeutic environments in which treatment and recovery can take place for all service users and staff.
- All procedures will be based on the culture of Fairness, Respect, Equality, Dignity and Autonomy (FREDA).
- All interventions will be in full compliance with the Mental Health Act and the Mental Capacity Act.

## 2. Procedure (see all quick reference charts)

Searching must only be undertaken as last resort using a person centred approach based on the FREDA key principles. In essence, the human rights-based approach is the way in which human rights can be protected in clinical and organisational practice by adherence to the underlying core values of fairness, respect, equality, dignity and autonomy (FREDA) ([see appendix 1](#)). A search information leaflet should be given to all service users and/or nearest relative prior to any procedure occurring ([see patient information leaflet](#)). All physical search interventions must only involve approved techniques which are the least restrictive, for the shortest time possible and are both reasonable and proportionate to the harm they aim to prevent. All searches must only be undertaken following an assessment of risk to self, others and environment and not as a routine approach. The option of deferring the search and continue to use a person centred approach with enhanced clinical observations should also be explored. Where there is an immediate risk of serious harm to persons or property the Police should only be called as an emergency using 999 where there is a significant risk present which cannot be managed using available resources.

All searches of a service user or their possessions must either be supported by an agreed management plan or where there is reasonable suspicion or belief that a risk item may be concealed which may be harmful to self or others (this may include communication from others i.e. family, other healthcare professional and friends);

### Types of searches;

#### a) Care planned searches

Care planned searches refer to a set of interventions agreed by the Care Team following a review of the service users summarised risk of harm to self and others. All agreed interventions must be the minimum required to maintain standards of safety for the service user and staff. The care plan should indicate the frequency of the searches, also the review period and service user involvement indicated.

#### b) Targeted searches

Targeted searches refer to the unplanned searching of a service user or their environments by nursing staff. The decision to implement this type of search procedure should be taken only by the nurse in charge in reaction to known or perceived risks and as a last resort. Post incident an appraisal of all the risk factors should be reviewed and discussed with the Care Team and service user to forward plan future safety actions.



## 2.1 Search levels

Where appropriate and safe the use of search levels should be discussed and agreed with the Care Team, service user and fully documented into a service users care plan. It is advised that for most search procedures (including targeted) level 1 approach with the use of a hand held detection device would safely support this procedure. For targeted searches (including room searches) level 2 and 3 would be appropriate, this could also include the use of a hand held detection device to support the physical search.

- a) Level 1 – Non-physical touch, use of the hand held detection device only ([see quick reference chart 1](#))
- b) Level 2 – Using physical touch and hand held detection device ([see quick reference chart 2](#))
- c) Level 3 - Room Search protocol ([see quick reference chart 3](#))
- d) Level 4 - Bag search protocol ([see quick reference chart 4](#))

## 3. Visitors ([see quick reference chart 4](#))

Staff must not attempt or plan to bodily search a visitor, only bags or items being brought into the inpatient areas intended for service users by visitors can be searched by staff. All searching of these bags or items must be conducted using the FRED A principles. Staff should fully explain the need to conduct searches which promote safe environments. In the event that staff have any suspicious regarding bags or items which are being brought in by visitors, consent to search the item must be sought from the visitor and a witnessed search undertaken within a safe area which affords privacy and dignity;

## 4. Mental Health /Mental Capacity Act ([see The MHA code of Practice Section 8](#))

The searching of service users is not expected to be a common routine occurrence. There are however, circumstances in which there is justification in law and preservation of professional duty for conducting personal searches. Staff must take into account the need to maintain a balance between the interests of treatment, care, the security / safety of the environment and the human rights of the service users, to the extent that these may conflict.

The Mental Health Act (MHA) confers no specific powers to authorise personal searching of service users and / or their property other than particular obligations to ensure the safety of service users or others. Part IV MHA relates to the use of reasonable force in the least restrictive way where this is necessary to achieving the purpose of those provisions.

For service users not detained under the MHA there remains a duty to ensure that actions are taken which maintains their safety and the safety of others. Any decision to implement the physical restraint of an informal service users must only be taken using the 'doctrine of necessity' principles. This implies that the action was the only option or necessary, for the shortest time possible and used the least restrictive interventions. The involvement of the Police in these types of incidents should be assessed particularly where there is an immediate serious risk of harm.

## 5. Consent ([see all quick reference charts](#))

The consent of the person should always be sought before a personal search of them or a search of their possessions is attempted. However consent does not have to be given if there is a serious risk to

others, under Health and Safety law health providers must take reasonable steps which promote and maintain safe environments. Consent obtained by means of a threat, intimidation or inducement is likely to render the search procedure illegal and may result in internal review process.

Any person who is to be searched personally or whose possessions are to be searched should be informed that they do not have to consent. If consent is given, the search should be carried out with regard to ensuring the maximum dignity and privacy of the person.

Staff must be aware that consent by the service user can be withdrawn at any point. Any searching of a service user or their property must be risk assessed in order to minimise the harm to all concerned. Staff must never put themselves or others at risk of harm or contamination from the individual being searched. A person being searched or whose possessions are the subject of a search should be kept informed of what is happening and why. If they do not understand or are not fluent in English, the services of an interpreter should be sought, if practicable. The specific needs of people with impaired hearing or a learning disability and those of children and young people should be considered.

### 5.1 Consent refusal ([see all quick reference charts](#))

If a service user refuses consent or lacks capacity to decide whether or not to consent to the search, the person centred approach should be continued which promotes the FREDa principles. Assessment of the risks should be undertaken by the nurse in charge and measures taken to minimise harm to all. If the service user continues to refuse consent or lacks capacity their Consultant or nominated deputy should be contacted to discuss the current situation and agree a plan going forward.

Decisions to implement a search procedure should not be delayed if there is reason to think that the service user is in possession of anything that may pose an immediate risk to their own safety or that of anyone else. The priority should focus on the immediate safety of the service user and others and actions taken which are reasonable, proportionate and only necessary to manage the risk. The service user should be kept fully informed of what is happening and why, in terms appropriate to their understanding. This is particularly important for individuals who may lack capacity to decide whether or not to consent to the search. Physical interventions such as restraint must only be used as a last resort and only after consultation with senior staff i.e. ward lead, Modern Matron.

## 6. Removal of a service users clothing

Priority must be given to FREDa principles in all incidents when staff suspect that a service users maybe concealing any item which deemed to be a harm to them or others. The removal of outer layers of clothing i.e. coat, jacket, hat, shoes are an acceptable part of carrying out a person search procedure. However **the removal of more than the outer layer of clothing or the exposure of underwear or genitalia/breasts, consensual or non-consensual, must not be undertaken unless; (1) there has been detailed discussion and agreement with the service users Consultant or nominated deputy and (2) there is an immediate risk of harm to the service user which cannot be managed in any other way.** A reasonable and proportionate approach must be taken and alternative consideration must be to utilise other resources i.e. Clinical Support Teams, CWP Safety and Security Lead and/or the use of the [CP25 Therapeutic Observations policy](#). Post incident a full rationale of the decision making process should be completed into the service users care notes and also recorded in to Datix.

For all risk items which are believed to be internally concealed in bodily orifices, other than orally, as a matter of urgency a medical opinion must be sought and actions taken immediately which safe guard the service user.

## **7. Service users under the age of 18 years ([see CC37 Chaperone policy](#))**

In accordance with CWP chaperone policy any search of a young person would constitute intimate and therefore require a trained chaperone. Before undertaking any procedure which would be classed as invasive and infringing on the young persons rights it is important to balance the risks and responsibilities of both the young person and the health provider. This would involve obtaining the appropriate consent, for informal patients also including those where an order under the Children Act 1989 is in force.

For young people under the age of 18, it will be important to consider the scope of parental responsibility and also under Section 131 of the MHA provides that the entitlement of an informal child patient who is "Gillick competent" to make his or her own decision as to whether to enter a psychiatric hospital as an informal patient. The consent should be obtained by a person who is competent to ensure that the relevant preconditions set out in the Gillick case are satisfied.

These are that:

1. The child will understand the proposed treatment;
2. The physical or mental health of the child is likely to suffer without the treatment; and
3. The best interests of the child require the treatment.

In accordance with Mental Capacity Act and section 8(1) of the Family Law Reform Act 1969 (HMSO,1969) provides that the consent of that person 'to any surgical, medical or dental treatment which in the absence of consent would constitute a trespass to his person shall be as effective as it would be if he were of full age; and where a minor has, by virtue of this section, given an effective consent to any treatment it shall not be necessary to obtain any consent for it from his parent or guardian'. The consent of a child of sufficient age and understanding, even though under 16, may be valid. There is no absolute parental right by which a parent can require their consent to be sought. Whether the consent of a child in any particular case is valid will depend on the circumstances, including the maturity and intellectual capacity of the child to understand the nature of the advice and what is involved in carrying out the treatment.

Where there is an issue of consent to the undertaking of any search of a service user under the age of 18 years and this is in the absence of any multi-disciplinary pre-agreed programme or plan of care staff must;

- Contact the Responsible Clinician or Consultant (or nominated deputy) to discuss possible options and agree a way forward.
- Where there is an immediate risk to safety of the young person reasonable and proportionate steps must be taken to ensure the safety of all concerned.
- Ensure every other possible option is explored before undertaking an personal search

If consent has been given and the parent / guardian cannot be present the search must be conducted in the presence of a trained chaperone.

An appropriate adult could be:

- The legal guardian;
- Social worker or local authority social services department;
- Adult staff over the age of 16 years.

If consent cannot be obtained from the parent / guardian or service user under 18 the search must not take place, the Consultant / RC or nominated deputy must be contacted to discuss plan to keep people safe.

#### **8. Removal of a patients possessions/belongings**

If any personal items or belongings which are removed during a search, staff should follow [CP62 Procedure for the security of patients cash and valuables on wards policy](#).

#### **9. Gender, ethnic and cultural diversity**

CWP aims to be a service that is responsive to the needs of and accountable to all members of all communities. For further advice please see [GR10 Equality, Diversity and Human Right policy](#).

#### **10. Post Incident support**

All service users who are involved in a physical search should be offered post procedure support by ward staff and this must be documented into the service users care notes. All incidents and details must be discussed with the service users care team and also staff must review and update where necessary CARSO form and management plans.

#### **11. Incident reporting (see GR1 incident reporting and management policy)**

Following any incident where targeted searches of a service user or their environment have been undertaken a Datix incident form must be completed by the nurse in charge of the ward where the incident occurred.

If the incident occurred away from the inpatient areas the senior nurse must complete a trust Datix incident form. Environmental searches alone do not need to be reported unless an incident occurred during the search. For Low Secure services please see local policy folder.

#### **12. Safeguarding**

All staff must fully adhere to CWP [CP10 Safeguarding adult's policy](#) & [CP40 safeguarding children's policy](#) for any referrals which need to be made to the safeguarding team following the conclusion of an incident.

#### **13. Definitions**

**Belongings / property search** – This search involves the search of lockers, bags and other means of storage

**Designated area** – a safe environment or area, affords privacy and dignity known to all staff

**External searching** - This consists of staff checking the directly adjacent external areas of the Trust buildings.

**Environmental searching** - This is a search of the internal communal inpatient areas within the Trust premises.

**FREDA principles** - underlying core values of fairness, respect, equality, dignity and autonomy

**Personal search** - This consists of a minimum of one staff searching the service user's physical person. This will normally involve the removal of outer clothing and footwear.

**Care Planned search** –personal or environmental search which has been agreed by the Care Team and patient following the outcome of an assessment of risk which and is documented into a management plan

**Strip search** – this involves the removal of more than the out layer clothing and may involve underwear

**Targeted searches** - This process may be appropriate where there are specific suspicions and / or risk information which relates to a particular individual or group of individuals. These searches include search of the person, personal property and sleeping areas.

## **Appendix 1 - Human Rights based approach**

The Human Rights Act 1998 came into force in October 2000 and incorporates most of the rights protected under the European Convention on Human Rights (ECHR). It must be considered in all UK courts, including mental health review tribunals. Public authorities, which include NHS bodies, have a duty to take steps to protect ('positive obligations') the human rights of individuals. The Department of Health has identified five key aims of a human rights-based approach to healthcare:

- Putting human rights principles and standards at the heart of policy and planning;
- Empowering staff and patients with knowledge, skills, organisational leadership and commitment to achieve a human rights-based approach;
- Enabling meaningful involvement and participation of all key stakeholders;
- Ensuring clear accountability throughout the organisation;
- Non-discrimination and attention to vulnerable groups.

### **The FREDA principles**

In essence, the human rights-based approach is the way in which human rights can be protected in clinical and organisational practice by adherence to the underlying core values of fairness, respect, equality, dignity and autonomy (FREDA).

#### **Fairness**

This principle demands that due consideration is afforded to the person's opinion, giving them the opportunity to have that point of view expressed, listened to and weighed, alongside other factors relevant to the decision to be taken.

#### **Respect**

Respect is the objective, unbiased consideration and regard for the rights, values, beliefs and property of other people. Respect applies to the person as well as their value systems and implies that these are fully considered before decisions which may overrule them are taken.

#### **Equality**

Many facets behind the principle of equality, including non-discrimination, overlap with respect. The NHS itself was founded on the principles of equality of access and equality of treatment.

#### **Dignity**

Dignity has been defined as 'a state, quality or manner worthy of esteem or respect; and (by extension) self-respect. Dignity in care, therefore, means the kind of care, in any setting, which supports and promotes, and does not undermine, a person's self-respect regardless of any difference'.

#### **Autonomy**

Autonomy is regarded as one of the four fundamental ethical principles of healthcare. It is the principle of self-determination whereby a person is allowed to make free choices about what happens to them – that is, the freedom to act and the freedom to decide, based on clear, sufficient and relevant information and opportunities, to participate in the decision-making.