Second Opinion Request Policy

Title: NHS Lothian Second Opinion Request Policy			
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Approved by:	Policy Approval Group		
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Author/s:	Deputy Medical Director		
Policy Owner:	Executive Medical Director		
Executive Lead:	Executive Medical Director		
Target Audience:	All clinicians, patients, their families and advocates		
Supersedes:	New policy. Replaces Second Opinion Request (Community Mental Health) Policy v1.0 (2025)		
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Version Control

Date	Author	Version	Reason for change
Jan 2026	Deputy Medical Director, Standards and Governance	v0.1-5	New policy under development
July 2026	Deputy Medical Director, Standards and Governance	v1.0	Approved by the Policy Approval Group

Executive Summary

This policy establishes clear guidance for services within NHS Lothian on the consistent and equitable management of patient requests for second opinions regarding diagnosis or treatment. Recognising the Scottish Government's position that patients have the right to seek a second opinion, the policy balances patient autonomy with clinical judgment and ensures that requests are considered fairly and consistently.

In this policy '*patients'* should be read as '*patients, their families, carers, parents and advocates*'.

Applicable to all patients receiving care from NHS Lothian. It outlines the roles of patients, healthcare professionals and third parties, while emphasising the importance of patient consent and clear communication.

The policy promotes a structured referral system to facilitate second opinions, ensuring timely access to alternative clinical opinions without compromising the primary clinician's role. It also addresses the management of refused or repeated requests, emphasising transparency, appropriate documentation and escalation protocols when necessary.

Additionally, it provides guidance on resolving disagreements between clinicians and patients, encouraging the use of advocacy services and alternative appeal mechanisms where appropriate. Exceptional circumstances requiring external referrals or additional approvals are clearly defined.

Overall, this policy aims to enhance patient-centred care, promote trust and collaboration between patients and clinicians, and ensure safe, effective, and equitable health care.

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Contents

1.0 Purpose

The purpose of this policy is to guide services about how a request for a second opinion on diagnosis or management should be managed to ensure that requests are considered fairly and consistently.

2.0 Policy statement

The Scottish Government and the General Medical Council support the right to request a second opinion. This is not a legal right but if a clinician thinks that it is in the best interest of the patient to refer for a second opinion, they should do so.

Children and young people are entitled to have their views fully considered in discussions and decisions about their care to the full extent of their capacity to engage in discussions and decision making. This depends on whether, in the opinion of the attending clinician, the child can understand the nature and possible consequences of the procedure or treatment. Clinicians treating children and young people must be familiar with the principles of the Age of Legal Capacity (Scotland) Act 1991 and with implementing these in clinical practice.

Martha's Rule (NHS England, 2024) is not mandated in Scotland. It is intended to empower patients, people who use services and their families and carers to seek an urgent review if the patient's health or condition deteriorates. These principles should be followed by services in NHS Lothian. The principles of Martha's Rule are especially relevant to acute inpatient settings where decisions and actions may be required in real time.

For patients receiving treatment under the Mental Health (Care and Treatment) (Scotland) Act 2003 there are a range of safeguards to provide independent scrutiny of care and treatment plans.

Under the Adults with Incapacity (Scotland) Act 2000, a second opinion is required for certain treatments or if a legal proxy (welfare attorney/guardian) disagrees with a proposed treatment.

3.0 Scope

This policy applies to all patients receiving care from NHS Lothian and should be followed by all clinicians who provide care on behalf of NHS Lothian in any setting, however it may be particularly applicable to patients receiving care on an outpatient basis or to longer term inpatients.

It is accepted that in acute settings such as Emergency Departments, Minor Injuries Units or GP Out of Hours Services the process set out in this policy will not be appropriate and clinical judgment on how to manage patient expectations will be required.

4.0 Definitions

Second Opinion Request: A second opinion, in this context, is when a patient seeks the clinical advice of a different clinician after receiving a diagnosis or treatment plan from their primary clinician. This may allow the patient to explore different perspectives on their condition and potential treatments, potentially leading to more informed decisions about their healthcare. It does not mandate a change of care from primary clinician to the clinician providing the second opinion.

Primary Clinician: This is the clinician currently responsible for the patient's health care. This may be the patient's secondary care clinician or the patient's GP.

5.0 Implementation roles and responsibilities

All patients should be made aware of their right to ask for a second opinion and the process that needs to be followed. Resources written in plain language and, where relevant, age-appropriate language should be available to explain the process. The Patient Information Team can advise on the readability, accessibility and layout of patient information in various formats.

A request may come from:

- the patient or their representative
- the primary clinician
- the patient's GP (usually at the request of the patient).

5.1 Primary Clinician

If the request has come from a third party, (who does not have confirmed Power of Attorney (POA), Guardianship or parental rights and responsibilities) then consent from the patient should be sought.

A request should usually be received in writing. However, if a request is received verbally during a consultation, then the request should be acknowledged separately or reflected in the output letter from the consultation, a copy of which should be sent to the patient.

Requests should be considered on an individual basis with consideration of the circumstances of each case, but a reasonable request from a patient for a second opinion should not be refused.

In the first instance, the primary clinician should discuss the request further with the patient within 20 days. The patient's concerns and expectations should be explored to ensure that any misunderstandings or alternative diagnoses or treatment options are discussed and offered where appropriate. Advocacy may be offered to facilitate engagement and support informal discussion and early local resolution where possible.

For patients receiving treatment under the Mental Health (Care and Treatment) (Scotland) Act 2003 there are a range of safeguards to provide independent scrutiny of

care and treatment plans. Ensuring that a patient is accessing these opportunities for a review may meet the needs for a second opinion. All patients asking for a second opinion whilst under the Act should be supported to discuss their legal options with an independent advocate.

Within NHS Lothian, the steps in requesting a second opinion will be:

1. Request a second opinion from another appropriate clinician in NHS Lothian.
2. If this is not available, is a second opinion from another NHS Board in Scotland,
3. If no options are available within NHS Scotland, request can be made to a provider in NHS England. Such requests must be made via the Safe Haven Office.

Patients should be made aware that the referral is for a second opinion only, not a transfer of care, and that any second opinion recommendations are not binding on the primary clinician. They should also be advised that other NHS Boards in Scotland, or providers in England, may not accept the referral.

5.2 Refusing a request, or refusing repeated requests, for a second opinion

A decision to refuse a request for a new second opinion should be rare and taken only after careful consideration. The reason that the request has been refused and the rationale for the decision should be communicated in writing, with an explanation provided to the patient and their GP and documented in the patient's notes.

When a second opinion has already been provided but the patient remains dissatisfied and requests a further opinion it is advisable that the primary treating clinician and the clinician who provided the second opinion should discuss this further with an appropriate Clinical Manager. Repeated reassessments and multiple further clinical opinions are unlikely to be helpful if a patient's symptoms or presentation have not changed, but exceptional circumstances should be considered. The reason that the request has been refused and the rationale for this decision should be communicated in writing in plain language to the patient and their GP and documented in the patient's notes.

5.3 Disagreements and disputes

There is no legal right to a second opinion, but patients do have the right to ask for a second opinion and for this to be considered in a consistent, fair, and equitable way. The patient may also be advised to seek support from advocacy services and be helped to do this. If a second opinion request has been refused, and the patient is not satisfied with the explanation, then the patient should be signposted to the NHS Lothian complaints process via the NHS Lothian Patient Experience Team.

For patients lacking capacity, and/or receiving treatment under the Mental Health (Care and Treatment) (Scotland) Act 2003, there are a range of safeguards to provide independent scrutiny of care and treatment plans. Ensuring that a patient is accessing these opportunities for a review may meet the needs for a second opinion.

In most cases, the second opinion is likely to be helpful to both the patient and the primary clinician. However, this may not always be the case and, if the clinician providing the second opinion considers that their advice will significantly conflict with the opinion and treatment of the primary treating clinician, they must consider the implications of this. They should not act in a manner likely to adversely affect the professional relationship between the patient and the primary clinician, e.g. by being unduly critical of the current treatment plan in communication with the patient or primary clinician, either verbally or in writing.

If the patient wishes to follow the recommendations of the clinician giving the second opinion and the primary treating clinician disagrees with the second opinion, the relevant Clinical Manager may assist in resolution and/or another independent expert opinion may be sought with the agreement of an appropriate Senior Manager.

6.0 Associated materials

NHS Lothian Standard Operating Procedure for requesting a second opinion from outwith NHS Lothian

Second Opinion Request Checklist, Community Mental Health

Second Opinion Request Process, Community Mental Health

7.0 Evidence base

Age of Legal Capacity (Scotland) Act 1991. Available at: https://www.legislation.gov.uk/ukpga/1991/50/contents (Accessed: 21 January 2026).

Mental Health (Care and Treatment) (Scotland) Act 2003, Available at: https://www.legislation.gov.uk/asp/2003/13/contents (Accessed: 21 January 2026).

NHS England (2024). *Martha's Rule* [Online]. Available at: https://www.england.nhs.uk/patient-safety/marthas-rule/ (Accessed 21 January 2026)

General Medical Council (GMC) (2024). *Joint statement on Martha's Rule from the GMC, NMC, and CQC*. [Online]. Available at: https://www.gmc-uk.org/news/news-archive/joint-statement-on-marthas-rule-from-the-gmc-nmc-and-cqc (Accessed: 21 January 2026).

General Medical Council (GMC) (2024). *Good Medical Practice* [Online]. Available at: https://www.gmc-uk.org/professional-standards/the-professional-standards/good-medical-practice (Accessed: 21 January 2026).

NHS Scotland (2022). *The Charter of Patient's Rights and Responsibilities*. Available at: https://www.gov.scot/binaries/content/documents/govscot/publications/advice-and-guidance/2022/10/charter-patient-rights-responsibilities-revised-june-2022/documents/charter-patient-rights-responsibilities-revised-june-2022/charter-patient-rights-responsibilities-revised-june-2022/govscot%3Adocument/charter-patient-rights-responsibilities-revised-june-2022.pdf (Accessed 21 January 2026).

Adults with Incapacity Act | Mental Welfare Commission for Scotland

8.0 Stakeholder consultation

The draft policy was supported by the Medical Directors Group.

An Equality and Children's Rights Impact Assessment was completed on the draft policy.

A draft version of this policy was made available for 28 days via the NHS Lothian intranet Consultation Zone to give all NHS Lothian staff an opportunity to provide feedback.

9.0 Monitoring and review

The policy will be reviewed and updated every three years. The Executive Medical Director and Deputy Medical Director will review the annual return from each local committee to the Board Healthcare Governance Committee to assess how the policy is working in practice and may decide on an earlier review if required.