



**South London  
and Maudsley**  
NHS Foundation Trust

## **Mental Health Act (1983)**

### **Nearest relative**

**Information for carers and patients**

[www.slam.nhs.uk/mha](http://www.slam.nhs.uk/mha)

## Introduction

The Mental Health Act helps people with mental health difficulties get the right support and treatment.

It can mean someone is kept in hospital under a section of the act (sectioned) or allowed to leave hospital under a community treatment order.

If this happens, a patient's nearest relative has certain rights, provided the patient gives consent.

These rights help the nearest relative ensure the patient receives appropriate support and treatment.

This leaflet explains who can be the nearest relative and what they can expect. It also explains what to do if you have concerns or want to get more information.

This leaflet should be read alongside the relevant Mental Health Act leaflet, either "In hospital under section" or "Community treatment orders".

## Who is the nearest relative?

There is only one nearest relative. The approved mental health professional involved in sectioning chooses the nearest relative.

They use this list from the Mental Health Act to help them decide:

- husband, wife or civil partner
- oldest son or daughter
- oldest parent
- oldest brother or sister
- oldest grandparent
- oldest grandchild
- oldest aunt or uncle
- oldest niece or nephew

The nearest relative is usually the person who is highest on this list. You are more likely to be the nearest relative if you live with the person who is unwell.

Sometimes the decision is not easy, for example if people are living together but separated, or someone lives outside the UK.

If you have any questions or concerns about how the nearest relative is chosen, speak to ward staff or an independent mental health advocate. There are more information sources on the back of this leaflet.

## What can a nearest relative expect?

**In general, these rights depend on the patient giving their consent**, unless they are so unwell that they have been assessed to lack capacity as defined by the Mental Capacity Act 2005.

As patients get better their capacity might change so we regularly check if patients give consent to these rights being used.

### Information

The nearest relative can expect to be informed if the person with mental health problems is:

- in hospital under section
- given treatment and care
- discharged from hospital

### Involvement and consultation

If they wish, the nearest relative can be involved in decisions about the patient's treatment and care

Their knowledge of what might help, and not help, is important to the patient's care team so they can expect staff to ask them for their views.

The nearest relative can also expect to be consulted if the treatment plan for the patient involves them in a caring role.

For example, if the patient is given overnight leave or weekend leave to stay with their nearest relative, or if they are an important part of the aftercare plan for when the patient leaves hospital.

## **Independent mental health advocate support**

The nearest relative can ask for an independent mental health advocate (IMHA) to see a patient.

Anyone in hospital under section can get free, independent and confidential advice from an IMHA.

Ask a member of staff for details, check ward noticeboards, or search online using your borough name – for example “Lambeth IMHA”.

## **Assessment**

If they have serious concerns, the nearest relative can request a Mental Health Act assessment from the patient’s care team. This might lead to someone being sectioned.

## **Discharge**

If they think a patient is well enough, the nearest relative can write to the hospital MHA office to request discharge. If the responsible clinician disagrees, they bar (refuse) discharge. The associate hospital managers review the decision. The nearest relative can also appeal to a mental health tribunal.

## **Hearings**

If a patient disagrees with their section, they can appeal and present their case at a hearing of either the mental health tribunal or the hospital managers.

Nearest relatives do not have an automatic right to attend a hearing. The patient decides. If they do not attend, the care coordinator will make sure the nearest relative’s views are presented.

## Are you a carer?

You could be entitled to help and support. To find out more visit [www.slam.nhs.uk/carers](http://www.slam.nhs.uk/carers)

## Concerns, questions and complaints

Please tell a member of staff if you have concerns. We want everyone to get the right care and support.

You can also contact the trust **Patient Advice and Liaison Service (PALS)**. They help to resolve issues before they become serious, and can pass on formal complaints. Call them on **0800 731 2864** (Option 2) or email [pals@slam.nhs.uk](mailto:pals@slam.nhs.uk).

For more information, ask a member of staff, see the ward welcome pack and noticeboards or visit [www.slam.nhs.uk/complaints](http://www.slam.nhs.uk/complaints)

## Care Quality Commission

The Care Quality Commission (CQC) is responsible for monitoring the quality of healthcare services.

You can contact them if you have a complaint about the way the Mental Health Act has been used.

Call: **03000 616161 (option 1)**  
Email: [enquiries@cqc.org.uk](mailto:enquiries@cqc.org.uk)  
Address: CQC Mental Health Act  
Citygate, Gallowgate,  
Newcastle upon Tyne, NE1 4PA

For more information visit [www.cqc.org.uk](http://www.cqc.org.uk)

## Notes (including care coordinator contact details)

## More information and advice

If you have any questions speak to a member of staff, or your IMHA. You can also visit our webpage:

**[www.slam.nhs.uk/mha](http://www.slam.nhs.uk/mha)**, or check these sources:

### Easy read information and films

- Visit **[www.nhs.uk](http://www.nhs.uk)** and search for “Easy Read Mental Health Act”.

### More detailed information

- MIND - **[www.mind.org.uk](http://www.mind.org.uk)**  
Legal line: 0300 466 6463 (local rate)  
9am to 6pm Monday to Friday (not bank holidays)  
email: [legal@mind.org.uk](mailto:legal@mind.org.uk)  
or write to: Mind Legal Line,  
Unit 9, Cefn Coed Parc  
Nantgarw  
Cardiff CF15 7QQ
- Rethink Mental Illness - **[www.rethink.org](http://www.rethink.org)**  
Advice and information: 0300 5000 927 (local rate)  
9.30am to 4pm Monday to Friday  
(not bank holidays)

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this leaflet in large print or  
another format or language.**