

Nearest Relative

This factsheet looks at the role of the nearest relative. This is a term used in the Mental Health Act. It covers who someone's nearest relative would be, what the nearest relative's rights are and other important information. You may find it useful if you care for someone with a mental illness who is under the Mental Health Act. You might also find it useful if you yourself are under the Mental Health Act.

 KEY POINTS

- The 'nearest relative' is a legal term used in the Mental Health Act. It is not the same as the next of kin. The next of kin has no rights under the Mental Health Act.
- The nearest relative has some rights when someone is, or may be, detained under the Mental Health Act (this is sometimes called 'being sectioned' or 'being held under section').
- Nearest relatives can ask for an assessment to decide if their relative should be detained under the Mental Health Act. They can also request that their relative is discharged from hospital.
- An application can be made to the County Court to have a nearest relative removed or changed if they do not feel that they are the right person for the role.
- The nearest relative does not have the right to be told everything about the patient. This could include information about what treatment the patient is taking. This will depend on whether the patient is happy for information to be shared.

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1. Key words

Some information in this factsheet is quite complicated. This section gives an explanation of some of the phrases and words that we use:

- **Approved mental health professional (AMHP):** An AMHP is appointed by social services. They have a good understanding of mental illness and knowledge of mental health legislation. This person could be a social worker, nurse or therapist. They can help to decide if someone should be detained under the Mental Health Act. The role of the AMHP is to give a non-medical opinion when detention is being considered, even if they have a medical background.
- **Community Treatment Order (CTO):** A CTO is made so that someone can leave hospital to be treated in the community. A responsible clinician will make a CTO which will have certain conditions that the patient should follow. If the patient fails to follow the conditions, they can be returned or 'recalled' to hospital. Carers and the nearest relative (NR) should also be involved as far as possible in the care planning process.

A patient can be given a Community Treatment Order (CTO) after being detained in hospital under certain sections of the Mental

Health Act. This is normally section 3 or section 37. A patient can not be given a CTO if they have been detained under section 2 only.

- **Guardianship:** Patients on a guardianship can get the treatment that they need in the community with the help of a guardian. If the patient did not have a guardian, it is likely that they would have to remain in hospital to get treatment. A guardian may be a local authority or someone else approved by a local authority known as a 'private guardian.'
- **Hospital Managers:** Hospital Managers make sure that the Mental Health Act is properly used, for example, making sure that information is given to detained patients and the nearest relative. They can also hold a hearing to decide if a patient should be detained or discharged.
- **Independent Mental Health Advocate (IMHA):** IMHA's are independent of other hospital staff. This means that they do not work for the NHS. An IMHA can explain a patient's rights and help them make decisions about their care and treatment. Everyone detained under the Mental Health Act has the legal right to see an IMHA.
- **Leave:** Any leave away from the ward has to be authorised by a doctor. This is known as 'section 17 leave'. Detained patients are not able to leave the ward freely. Leave may be increased gradually over a number of weeks.
- **Responsible Clinician (RC):** The RC is the professional who is responsible for a patient's care and treatment.
- **Section 2 (s2) of the Mental Health Act:** S2 allows a person to be admitted to hospital for an assessment of their mental health and to get any necessary treatment. It lasts for a maximum of 28 days and can not be renewed. People who need to stay in hospital after 28 days will be transferred to a section 3.
- **Section 3 (s3) of the Mental Health Act:** S3 allows a person to be admitted to hospital for treatment. It lasts for 6 months, but this can be renewed.

You can find out more information on www.rethink.org about:

- Community Treatment Order
- Mental Health Act
- Advocacy

At www.rethink.org. Or call 0121 522 7007 and ask us to send you a copy.

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2. What is the Mental Health Act 1983?

The Mental Health Act 1983 is law which explains when someone with a mental disorder can be placed in a psychiatric hospital for assessment and treatment. This is often known as 'being detained' or 'being sectioned.' The Mental Health Act is only used when that person has put their own or someone else's health and safety at risk.

You can find out more about the '**Mental Health Act**' at www.rethink.org. Or call 0121 522 7007 and ask us to send you a copy.

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3. What is the nearest relative?

The nearest relative (NR) is a term that is defined under the Mental Health Act. The NR has certain rights under the Mental Health Act. Most people will have a nearest relative.

It is important to be aware that the NR and the 'next of kin' can be two different people. The next of kin is usually a relative or close friend chosen by someone soon after they are admitted to any sort of hospital. The next of kin has no legal powers under the Mental Health Act.

However professionals should aim to identify carers as well as the nearest relative and, if agreed by the patient, involve them in discussions.

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4. Who is the nearest relative?

Section 26 of the Mental Health Act explains who can be the nearest relative (NR). A patient can not choose their NR.

The term relative is defined by the Mental Health Act as a list. The list is below. The general rule is that the NR will be the person who comes highest on the list, however, there are other rules that may affect who the NR will be.

1. Husband, wife or civil partner
2. Son or daughter
3. Father or mother
4. Brother or sister
5. Grandparent
6. Grandchild
7. Uncle or aunt
8. Niece or nephew

Men and women are equal. If there are two people who could be the NR, for example, mother and father, the eldest person would be the NR.

The rules that may affect who the NR will be are:

- the NR must be over 18, unless he or she is the husband, wife, civil partner or parent of the person.¹
- if the person normally lives with or is cared for by a relative, that person goes to the top of the list and becomes the NR.²
- a relative living abroad cannot act as the NR for someone who lives in the UK.³ However, someone living in the UK will still be the NR if on holiday abroad. Someone who does not live in the UK can have an NR who does not live in the UK.⁴
- permanently separated husbands, wives or civil partners, including same sex partners, cannot be the NR.⁵ Partners are also included when a couple has been living together as husband and wife or as civil partners for six months or more, unless one person in the couple is married to someone else or not permanently separated from them.⁶
- the eldest person would be the NR if there are 2 or more people in the same category. For example a brother and sister. Full blooded relatives will be preferred over half blooded relatives.⁷ For example a sister would be preferred to half sister.
- someone other than a relative, who has been living with the person for five years or more, will be treated as if they are a relative. This means that person may become the NR, unless someone in the above list is either living with or caring for the patient.⁸
- step children are not treated as relatives, but can become the NR if:
 - there is no other NR and they normally live with the person and have done so for at least five years, or
 - a court decides that they should be the NR,⁹ or
 - the current NR asks them to be the NR and they agree, this is known as “delegating”.¹⁰

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5. What are the nearest relative's rights?

The nearest relative (NR) has certain rights under the Mental Health Act. These rights are explained below. However, the duty that healthcare professionals have to tell the NR information is not absolute. This means that in almost all cases information will not be shared with the NR if the patient does not want it to be.¹¹

Right to get information

The approved mental health professional (AMHP) must let the NR know that an application is going to be made, or has been made, to detain their relative under section 2 (s2) of the Mental Health Act. The AMHP should tell the NR what rights they have to discharge the patient.¹²

The NR may not be told that their relative has been detained under s2 if it would have a negative effect on the patient. Negative affect could mean:¹³

- emotional distress,
- mental health getting worse,
- physical harm,
- financial or other exploitation.

Hospital Managers should give the NR copies of any information given to the patient in writing. However the patient can block information from being given to the NR.¹⁴ This includes if their judgment or reasoning has been affected by symptoms of mental illness.

Right to consultation

The AMHP must speak with the NR before someone can be detained for treatment under section 3 (s3), unless:

- it is not reasonably practical. For example the NR can not be found quick enough which could cause treatment to be delayed, or
- the NR is having difficulty with their own health or mental capacity.¹⁵

The NR may not be consulted about an application for detention under s3 if it would have a negative effect on the patient. AMHP's should record their reasons if they do not consult with the NR.

Detention under s3 or a guardianship cannot go ahead if the NR disagrees with the decision.¹⁶ However a County Court can remove the NR if they think that the NR is stopping the application for s3 or guardianship on unreasonable grounds. This is known as 'displacement'.

The NR cannot stop a community treatment order (CTO) being made.

A patient may not want the NR to be consulted about an application for detention under s3. In this case the AMHP should give the NR enough information to allow them to do what the Mental Health Act asks them to do.¹⁷

Right to ask for assessment

The NR can ask social services carry out a mental health assessment.¹⁸ Some families have found this right helpful in a crisis. The NR can ask for a mental health assessment through their local social services. You need to speak to the approved mental health professional (AMHP) team. The AMHP on duty will take your request and present it to the team. The team will meet every week and decide if they will do an assessment. This can mean that it may take up to 7 days to hear if they will do an assessment.

You can make your request in writing or over the phone. There is an example letter at the end of the factsheet to ask for a mental health assessment. If they decide not to do an assessment, they have to tell you their reasons why in writing.

Right to apply for admission

The NR can ask hospital managers to detain a person under s2, s3, or in an emergency.¹⁹ The NR may only be able to apply directly to the hospital if doctors agree that the person should be detained but the AMHP disagrees.²⁰

Therefore it may be easier to ask the social services department to make an assessment first, before you apply to the hospital managers.

You will need to complete a specific form to make a NR application. Follow the link to see the form:

www.legislation.gov.uk/ukxi/2008/1184/schedules/made.

Right to discharge

The NR can discharge someone from detention under s2 or s3, a community treatment order (CTO) or guardianship. However is not possible if the person has been detained after a judge or magistrate has made a court order.²¹

The responsible clinician is able to stop the discharge in certain circumstances.

The NR must be told of the patient's discharge from detention or CTO. However the NR may not be told if:²²

- it is not practicable to tell the NR, or
- either the patient or the NR has requested that information about the discharge should not be given.

Right to get notice of Discharge

The NR should be given 7 days notice of the end of a section or CTO order if possible.²³

Right to be told about:

- renewal of a patient's detention,
- extension of a CTO, and
- transfer from one hospital to another.²⁴

Right to contact the Independent Mental Health Advocacy service (IMHA)

Patients detained under the Mental Health Act are entitled to get support from an IMHA. This includes people under a CTO. Patients do not have to have help from an IMHA if they do not want it.

An IMHA should visit and talk to the patient if the NR asks them to.²⁵ An IMHA is there to make sure that the patient is heard and understands what their rights are whilst under the Mental Health Act. IMHA's can talk to staff on the patient's behalf to help them understand why certain decisions have been made. They can also help healthcare professionals to understand any concerns that the patient has.

Patients can get help from an IMHA and solicitor at the same time.

You can find out more about 'Advocacy' at www.rethink.org. Or call 0121 522 7007 and ask us to send you a copy.

Right to delegate the role to someone else

The NR can pass their NR duties to someone else if the other person agrees.

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6. What happens if someone does not want to be the nearest relative?

The nearest relative (NR) can pass their rights to another person as long as the other person agrees to take on the role. This is known as 'delegating'. The NR cannot delegate to the patient.

If the NR decides to delegate, they would need to tell the following people in writing:

- the patient,
- the hospital managers if patient is under section or a community treatment order, or where the patient is most likely to be detained if patient is in the community, and
- the local authority, and private guardian, if patient has one, if the patient is under a guardianship²⁶

The NR can use the sample letter at the end of the factsheet to delegate their duties to someone else.

NR's can delegate their functions at any time, even if they have made a request such as an admission to hospital. The NR can change their mind at any time and take back the delegation.²⁷

If you are thinking about delegating the NR role to someone else, you could contact an approved mental health professional from the local authority for help.

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7. What happens if someone does not have a nearest relative?

The County Court can appoint someone as nearest relative (NR) if the patient does not have one. The patient can nominate someone they would like to be the NR. However it will be up to the court to decide who the most suitable person is.

The approved mental health professional (AMHP) should try to identify who the nearest relative (NR) is during a mental health assessment.

The AMHP can apply to county court if:

- it is not clear who the NR should be,
- the NR is incapable to be NR,
- they have good reason to think that the patient thinks that their NR is unsuitable, or
- it is not reasonable for the patient or anyone else to apply to court.

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8. Does everyone have a nearest relative?

No. People who are in hospital under section because they have been in contact with the police or courts may not be able to have a NR. These sections are called forensic sections. The following people will not have a NR as defined by the Mental Health Act:

- patients remanded to hospital by the courts under sections 35 or 36,
- patients subject to interim hospital orders under section 38, and
- restricted patients,²⁸

Restricted patients are offenders, or people awaiting trials, that are in hospital awaiting mental health treatment. They are monitored by The Mental Health Casework Section on behalf of the Justice Secretary. They have extra restrictions given to them because they may be a risk to the public. These restrictions include:

- permission for community leave,
- transfer to another hospital,
- discharge, and
- recall to hospital.

A patient on a section 37 without a restriction order may have an NR. However NR rights will be different.

You can find out more about forensic sections at www.rethink.org. Or call 0121 522 7007 and ask us to send you a copy. There is a list of forensic sections at the end of this factsheet.

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9. Can the nearest relative be removed?

If the nearest relative is not a suitable person an application can be made to the County Court to remove them.²⁹ This is known as 'displacement'.

A more suitable person can be suggested to the court. However the court could decide to keep the original NR in place. The court will decide to appoint the most suitable person as the NR.³⁰

An application to displace the nearest relative can be made by any of these people:³¹

- the patient,
- the patient's advocate or carer if the patient lacks mental capacity,
- any relative of the patient,
- anyone who the patient was living with before going into hospital, or
- an AMHP.

If you would like to displace your own NR we suggest that you get legal advice from a mental health solicitor. You do not need a solicitor to represent you in County Court, you can represent yourself. If you would like legal representation you may qualify for legal aid. Legal aid may not cover all of the court costs.

Follow this link to find out if you qualify for legal aid:

<https://www.gov.uk/legal-aid/eligibility>

You can find out more about the 'Legal advice' at www.rethink.org. Or call 0121 522 7007 and ask us to send you a copy.

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10. Can an approved mental health professional remove the nearest relative?

An approved mental health professional (AMHP) can apply to the County Court to 'displace' or remove the nearest relative (NR). However the county court would make the decision to displace the NR. An AMHP will only make an application if they believe that:³²

- it is not reasonable for the patient or anyone else to apply to court,
- a patient should be detained in hospital under section 3, or should become a guardianship patient, but the NR disagrees without good reason,
- the NR has used their power to discharge a patient without thinking about the patient's welfare or the other people's welfare,
- the NR is likely to discharge a patient from detention, or guardianship without thought for the patient's welfare or other people's welfare, or
- is not able to act because of a mental disorder or other illness, or
- the NR is not a suitable person.

It is the AMHP's decision to apply to the County Court to displace the NR.³³

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11. What happens if the nearest relative is removed?

If the NR is removed, the County Court can choose who will act as the NR.

Displacement of the NR is likely to last for a certain length of time. This can depend on what section the patient is under.

The NR can apply to the First-tier Tribunal if they have been displaced by the County Court. An application can be made once in the first year following displacement and once in each following year.³⁴

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12. How can the nearest relative discharge their relative from the Mental Health Act?

The nearest relative (NR) must give the hospital managers 72 hours written notice if they want to discharge their relative from a section of the Mental Health Act.³⁵ This includes discharge from a community treatment order (CTO) and guardianship.

There is not a specific form that the NR needs to fill in to discharge the patient. The template letter is at the end of this factsheet.

If the person's responsible clinician (RC) thinks that the patient should not be discharged they can issue a 'barring report' within 72 hours. This will stop the discharge.

If a barring report is issued the NR will have the right to apply to the tribunal for discharge if the patient is detained under section 3 or CTO.³⁶

The NR will not be able to discharge the patient from detention at any time in the 6 months that follow the date of the barring report.³⁷

A discharge should not be stopped unless the patient is likely to be dangerous to themselves or others.³⁸

The NR does not have a right to discharge their relative if the patient is detained in hospital under a forensic section. A forensic section is a section that a patient is put under as a result of being involved with the police, court or prison.

It is not possible for the NR to apply to the hospital managers to discharge their relative from a guardianship order. A guardianship order is different to a guardianship. A guardianship order is used by a court as an alternative to a hospital order for offenders with mental disorders. However the NR can apply to the mental health tribunal instead.³⁹

You can find out more about forensic sections at www.rethink.org. Or call 0121 522 7007 and ask us to send you a copy. There is a list of forensic sections at the end of this factsheet.

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13. What is a mental health tribunal?

This is an independent panel made up of a judge, tribunal doctor and mental health expert. They hear the case for and against discharge and decide if it can go ahead.⁴⁰

Patients can apply to the tribunal for a hearing to be discharged. An independent mental health advocate (IMHA) and solicitor will be able to help a patient apply for a hearing and help during the hearing.

The nearest relative (NR) can only apply for a tribunal if:

- discharge has been stopped by the responsible clinician (RC), and
- the patient is on section 3 or a community treatment order (CTO).

The NR must apply within 28 days of the RC stopping discharge.⁴¹

A patient on a section 37 or their NR can apply to the tribunal for discharge in the period between 6 and 12 months after the making of the hospital order. They can also apply once in every following year.⁴² This does not include patients who are on a section 37/41.

The NR may be able to represent their relative or attend and speak at the hearing and give a written statement, if the NR applied for the tribunal. However a tribunal would need to agree.⁴³ A friend or advocate can address the tribunal on the NR's behalf⁴⁴.

You can find out more about '**Discharge from the Mental Health Act**' at www.rethink.org. Or call 0121 522 7007 and ask us to send you a copy.

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14. Nearest relative points to remember

Information sharing

Information is unlikely to be shared with the nearest relative (NR) if the patient does not give their consent.

The NR does not have any extra rights to be given information about their relative's mental health care or treatment when they are detained under the Mental Health Act. The hospital will still have a duty of confidentiality to the patient and will need their permission to share information.

The Mental Health Act Code of Practice says that the progress of the patient should also be discussed with carers, if the patient consents.⁴⁵

You can find more about '**Confidentiality and information sharing**' at www.rethink.org. Or contact 0121 522 7007 and ask us to send you a copy.

Patient decisions

The NR doesn't have any right to make decisions on behalf of the patient. This includes both financial decisions and welfare decisions.

If you are concerned that your relative lacks mental capacity to make decisions that are in their best interest you may be able to use your

Lasting Power of Attorney (LPA) powers. If your relative does not have an LPA you could apply to the Court of Protection to become your relative's deputy.

You can find out more about '**Mental Capacity and Mental Health**' at www.rethink.org. Or call 0121 522 7007 and ask us to send you a copy.

Compulsory medication

A patient detained under the Mental Health Act can be treated without their consent. The NR has no rights to stop this. For example, the patient may be given their medication by injection, even if they do not want this. This is usually if the person is very unwell.

Community Treatment Order

The NR cannot stop a community treatment order from being made. A NR may not be told if a CTO is being made. This may happen when the patient does not want their NR to be told. However the NR can order the discharge of a CTO by giving 72 hours notice in writing.⁴⁶ The Responsible Clinician can prevent the discharge by issuing a 'barring notice'.

Hospital leave, under section 17

The NR has no rights to request that the hospital gives someone leave.

Nearest relative removal

The NR can be displaced if they:

- stop a patient from being detained under section 3 without good reason, or
- use their power to discharge the patient without thinking about the patient's welfare and the welfare of others.

Complaints

The patient or NR can make a complaint about treatment and care through the NHS complaints procedure.

The patient or NR can complain to the Care Quality Commission (CQC) if there is a concern that the Mental Health Act has not been used correctly. Their details can be found in the 'useful contacts' section of this factsheet.

You can find out more about '**Complaints**' at www.rethink.org. Or call 0121 522 7007 and ask us to send you a copy.

Carers support and advocacy

A member of the ward staff should be able to tell you if there is a carers' advocacy or support service that covers your relative's hospital. You can also find out about mental health advocacy through the Patient Advice and Liaison Service (PALS) at your NHS trust. You can find your local PALS' details at [http://www.nhs.uk/Service-Search/Patient-advice-and-liaison-services-\(PALS\)/LocationSearch/363](http://www.nhs.uk/Service-Search/Patient-advice-and-liaison-services-(PALS)/LocationSearch/363) or we could search for you. You can contact us on 0300 5000 927.



Forensic section factsheets:

- Section 35
- Section 36
- Section 37
- Section 37/41
- Section 38
- Section 48/49

Our factsheets are available at www.rethink.org. Or call our Support Care Team on 0121 522 7007 and ask them to send you a copy of the factsheet. For advice, call 0300 5000 927.



Care Quality Commission

If you have concerns or a complaint about the way the Mental Health Act has been used you can contact the Care Quality Commission.

Telephone: 03000 616161 - press '1' to speak to the mental health team.

Address: CQC Mental Health Act, Citygate, Gallowgate, Newcastle upon Tyne, NE1 4PA

Email: enquiries@cqc.org.uk

Website: www.cqc.org.uk



Sample Letter - Nearest Relative can ask for an Assessment from Social Services Department

Your name
Your address
Your telephone number
(optional)
Your email address (optional)
Date

Approved Mental Health Professional/

Dear Sir/Madam

Re:..... [add your relative's name here]

of [add you relative's address here]

.....
.....

Admission to hospital request

I am writing to ask the AMHP to make an application for my relative's admission to hospital. I am using my right as the nearest relative to ask that an approved mental health professional (AMHP) considers my relative's case.

I am concerned about [His/her] behaviour because *[Write here what is causing you concern]*

or

[He/She] is a risk to [himself/herself] or others because *[Write here what is causing you concern]*

[You could think about information such as.

- How has their behaviour changed?*
- When did their behaviour change?*
- Are they aggressive? If so, how?*
- Have they tried to harm themselves or others? If so, how and when did it happen?*
- Have they stopped eating, drinking or bathing?*
- Have you got any evidence to show the changes in their behaviour?]*

If the AMHP makes the decision not to make an application to hospital, I would like to be told why this decision has been made in writing. I would also like a meeting with the AMHP to discuss alternative care and treatment for my relative.

This request is made under Section 13 (4) of the Mental Health Act 1983
(as amended in 2007).

Yours faithfully

Signed
Nearest relative

Date

Sample letter - Nearest Relative can delegate their duties to someone else.⁴⁷

Your name
Your address
Your telephone number
(optional)
Your email address (optional)
Date

Hospital address or
Local authority address

Dear [Hospital Managers or Local Authority],

[Look at section 6 of this factsheet to find out who you need to tell that you are no longer the nearest relative.]

Delegation of nearest relative rights.

I, [nearest relative name], of [full address] am the [relationship to patient] of [name of patient]. I am their nearest relative within the meaning of the Mental Health Act 1983.

I would like to delegate my nearest relative duties for [name of patient] to [name of person to delegate to] of [full address]. They have agreed to take on the nearest relative duties for [name of patient].

In line with my duty I have told [name of patient] that I am no longer the nearest relative and told them who their nearest relative will be.

The Mental Health Act and Regulation 24 of the Mental Health (Hospital, Guardianship and Treatment) (England) Regulations 2008, gives me the right to delegate my nearest relative rights.

Yours faithfully,

Signed
Nearest relative

Date

[You could also add the following paragraph, however you don't need to as long as the delegate has agreed to take on the nearest relative duties.]

I, [name of delegatee], of [full address], agree to take on the duties of the nearest relative under the Mental Health Act 1983.

Signed
Delegatee

Date

Sample Letter - The nearest relative can use this letter to discharge their relative from the Mental Health Act.⁴⁸

Your name
Your address
Your telephone number
(optional)
Your email address (optional)
Date

Hospital address

Dear [Hospital Managers],

Order for discharge

This letter is let you know that I plan to discharge [name of patient] from [detention under the Mental Health Act, guardianship or community treatment order] on [write the date that you plan to discharge your relative].

I, [nearest relative name], of [full address] am the [relationship to patient] of [name of patient]. I am [his/her] nearest relative within the meaning of the Mental Health Act 1983.

Section 23 of the Mental Health Act 1983 gives me the right to discharge my relative.

[Remember that your relative will not be discharged straight away and the request may be stopped by a barring report. Your relative will be able to leave the hospital 72 hours from when the hospital managers get your letter, if your discharge request is not barred.]

Signed
Nearest relative

Date



- ¹ s26(5) Mental Health Act 1983 c20
- ² As note 1 (MHA 1983) s26(4)
- ³ As note 1 (MHA 1983) s26(5)(a)
- ⁴ Department of Health *Reference Guide to the Mental Health Act 1983* London: TSO. 2015 (page 26) (paragraph 2.16)
- ⁵ As note 1 (MHA 1983) s26(5)(b)
- ⁶ As note 1 (MHA 1983) s26(6)
- ⁷ As note 1 (MHA 1983) s26(3)
- ⁸ As note 1 (MHA 1983) s26(7)
- ⁹ As note 1 (MHA) s29
- ¹⁰ r 24, Mental Health (Hospital, Guardianship and Treatment) (England) Regulations 2008. SI 2008/1184.
- ¹¹ Department of Health. *Code of Practice Mental Health Act 1983*. London: TSO. 2015 (page 42) (paragraph 4.33)
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/435512/MHA_Code_of_Practice.PDF. (accessed 9th December 2015)
- ¹² As note 12, at (page 123) (paragraph 14.58)
- ¹³ As note 12 (paragraph 4.36)
- ¹⁴ As note 4, (paragraph 2.27)
- ¹⁵ As note 1(MHA 1983) s11(4)(b)
- ¹⁶ As note 1 (MHA 1983) s11(4)(a)
- ¹⁷ R (Stevens) v Plymouth City Council [2002] EWCA Civ 388
- ¹⁸ As note 1 (MHA 1983) s13(4)
- ¹⁹ As note 1 (MHA 1983) s11(1)
- ²⁰ As note 4 at (Page 21) (Paragraph 2.2)
- ²¹ As note 1 (MHA 1983) s23(2)
- ²² As note 12 at (page 42) (para 4.33)
- ²³ As note 1 (MHA 1983) s133(1)
- ²⁴ As note 12 at (page 42) (para 4.34)
- ²⁵ As note 1 (MHA 1983) s130B(5)
- ²⁶ r 24, Mental Health (Hospital, Guardianship and Treatment) (England) Regulations 2008. SI 2008/1184
- ²⁷ As note 4 (page 27) (paragraph 2.29)
- ²⁸ As note 4 at (page 14) (paragraph 1.25)
- ²⁹ As note 1 (MHA 1983) s29(3)(e)
- ³⁰ As note 1 (MHA 1983) s29(3)
- ³¹ As note 12 at (page 51) (para 5.10)
- ³² As note 12 at (para 5.11 – 5.13)
- ³³ As note 12 at (para 5.15)
- ³⁴ As note 4 (page 23) (paragraph 2.2)
- ³⁵ As note 1 (MHA 1983) s25(1)
- ³⁶ As note 1 (MHA 1983)s66 (1)(h)(ii)
- ³⁷ As note 4 (page 249) (para 27.18)
- ³⁸ As note 12 at (page 355) (para 32.22)
- ³⁹ As note 12 at (page 348) (para 30.39)
- ⁴⁰ <https://www.gov.uk/mental-health-tribunal/what-happens-at-the-hearing> (accessed 10th December 2015)
- ⁴¹ As note 4 at (Page 22) (paragraph 2.2)
- ⁴² As note 4 at (Page 23) (paragraph 2.2)

⁴³ r 11(5) Tribunal Procedure (First Tier Tribunal) (Health, Education and Social Care Chamber) Rules 2008. SI 2008/2699.

⁴⁴ r 11(1) Tribunal Procedure (First Tier Tribunal) (Health, Education and Social Care Chamber) Rules 2008. SI 2008/2699.

⁴⁵ As note 12 at (page 44) (para 4.43)

⁴⁶ s 25(1A) MHA

⁴⁷ As note 12, at (page 50) (para 5.5)

⁴⁸ As note 12, at (page 355) (para 32.25)

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