Dialogue not Monologue

Talk to me not at me

Nothing about me without me

Ask me what I need and when I need it

Sheffield Carers’ and Young Carers’ Information leaflet on Hospital Admissions and the Mental Health Act
Although most mental health problems are successfully managed in the community, some people need a stay in hospital. People are admitted to hospital either informally or under a section of the Mental Health Act (MHA). An informal patient can leave the hospital at any time and their movements are not generally restricted.

If you are the nearest relative you also have rights under the Mental Health Act (the nearest relative is not necessarily the next of kin). For example, if you are worried that the person you care for is becoming seriously ill and might need hospital care you can ask that they have a Mental Health Act assessment which may lead to admission to hospital (please see ‘Need Help in a Crisis’ section, on page 20 of the Information Pack or see the separate leaflet).

You can also ask that they are discharged from hospital and you have the right to information about their discharge from hospital (unless the person you care for requests otherwise). Before discharge from hospital, family and carers should be involved with the care team in drawing up what is known as a ‘discharge plan’. The plan should include a relapse prevention plan which makes sure everyone knows what to do if the person’s mental health gets worse.

Children and young people under the age of 18 are encouraged to visit their relative in hospital and should be offered a private space. There may be times when visits are limited but this will be explained to you by staff. Children aged under sixteen years must be accompanied by a responsible adult at all times during visits.
A small number of sectioned patients return to the community under Community Treatment Orders (CTO) which lay down certain conditions and allow a recall to hospital.

**Hospital Admission under the Mental Health Act**

If someone is unwilling to go into hospital and is considered to be at risk to themselves or others, a decision could be taken to use special legal powers known as ‘sections’ to detain them in hospital. These powers are set out under various sections of the Mental Health Act (MHA) and are usually applied when staff working with the person believe that there is no better alternative.

When someone is taken into hospital under the Mental Health Act, then medical permission to leave the ward (called section 17 leave) is needed and they may be expected to take medication and treatment.

There are seven main sections of the act, although there are others that cover different situations. For more information on the MHA you can speak to your cared for persons Care Coordinator.

The main sections of the Mental Health Act are:

**Section 2 - up to 28 days**

This section lasts for **up to 28 days**. Two doctors and an approved mental health professional (AMHP) decide when to put someone on section 2. A senior doctor known as a Responsible Clinician (RC) will be in charge of their care and treatment.
Section 3 - up to six months

This lasts for **up to six months**. Two doctors and an AMHP decide when to put someone on section 3 – and a RC will be in charge of their care and treatment. The main purpose of section 3 is to allow more time to treat someone effectively for their mental health problem.

Section 4 - up to 72 hours

This lasts **up to 72 hours**. If someone comes to hospital under section 4 it means the AMPH assessing them was very concerned about them and needed to act quickly. Section 4 means only one doctor saw them and is usually followed by a section 2 or section 3.

Section 5(2) - 72 hours

If someone comes into hospital without being on a section, they are an informal or voluntary patient. If they want to leave, but this is not considered safe or appropriate, doctors can use section 5(2). It lasts for **72 hours**, and gives doctors time to make a decision on further care, for example under section 2 or 3. Section 5(2) is sometimes called a ‘doctor’s holding power.’
Section 5(4) - up to six hours

If a nurse thinks that it is not safe or appropriate for someone to leave hospital but a doctor is not available to apply section 5(2), the nurse can stop a patient leaving by placing them under section 5(4). This power lasts for **up to six hours**, ending when a doctor assesses the patient. This is sometimes called a ‘nurse’s holding power.’

Section 136

A small number of people are brought to hospital under section 136, a power that can be used by a police officer if they are concerned about the way someone is behaving in a public place. The assessment suites where people are seen are referred to as ‘place of safety’ suites.

Community Treatment Order (CTO)

Some patients under section 3 can leave hospital and carry on receiving treatment in the community. A patient on a CTO needs to keep to particular conditions and may have to go back into hospital if there are concerns about them. A CTO lasts for up to six months and might be renewed.
The Mental Capacity Act 2005 provides a legal framework for acting and making decisions on behalf of a person, aged 16 or over, who does not have the mental capacity to make a decision for him or herself. This includes people with dementia, head injuries or mental health problems. If a Carer is looking after someone who lacks the capacity to make decisions, the Mental Capacity Act allows them to become designated decision makers in certain situations.

A Lasting Power of Attorney is a way of giving someone you trust the legal authority to make decisions on your behalf if you lack mental capacity at some time in the future or no longer wish to make decisions for yourself.

Lack of capacity cannot be considered merely on a diagnosis of a medical condition, appearance, behaviour or age. The Mental Capacity Act instead sets out a single clear test for assessing whether a person lacks capacity to take a particular decision at a particular time. It is a “decision-specific” and time-specific test which should have the best interests of the person at its heart.
There is a non-exhaustive checklist of factors that decision-makers must work through in deciding what is in a person’s best interests. Carers have a right to be consulted concerning a person’s best interests. If a person has a written advance statement about their wishes this must also be considered.

The Act deals with two situations where a designated decision-maker can act on behalf of someone who lacks capacity:
- **Lasting Powers of Attorney (LPAs)** – The Act allows a person to appoint an attorney to act on their behalf if they should lose capacity in the future
- **Court Appointed Deputies** – The Act allows the Court of Protection to appoint deputies to take decisions on welfare, healthcare and financial matters. Deputies cannot refuse consent to life-sustaining treatment.

**Advance Decision**

The Mental Capacity Act includes provisions for people to make Advance Decisions to refuse treatment if they should lack capacity in the future. Where an Advance Decision concerns treatment that is necessary to sustain life, the decision must be in writing, signed and witnessed.
If the person you care for has a degenerative illness, it is worth considering Lasting Power of Attorney (LPA) whilst they still have mental capacity. There are two kinds of LPA:

- **Giving the attorney (the person holding the LPA) the power to manage all their property and financial affairs.**
- **Allowing the attorney to make decisions regarding their personal health and welfare.**

There is a fee to register each kind of LPA with the Court of Protection, though this fee is waived if the person you care for is in receipt of an income related benefit. It is advisable to use a solicitor to set up a Power of Attorney, though you do not have to. Power of Attorney forms can be accessed by contacting the Office of the Public Guardian online at: [www.justice.gov.uk/about/opg.htm](http://www.justice.gov.uk/about/opg.htm), or telephoning - 0300 456 0300.
Useful Resources

Information and leaflets are available from staff or to download from http://shsc.nhs.uk/need-help/help-for-carers-and-relatives/carer-information/

The following information is available from staff:

- Carers’ and Young Carers’. How to Get Involved
- Carers’ and Young Carers’ Charter
- Understanding Confidentiality
- Need Help in a Crisis?
- Advocacy
- Carers and Young Carers Assessments
- Community Mental Health Teams
- Hospital Admissions and the Mental Health Act
- Understanding Mental Health Conditions and Medication
- Carers’ and Young Carers’ Checklist. Getting the Information You Need
- Useful Contacts: Services for Carers and Young Carers

Further information can be found on http://shsc.nhs.uk/need-help/help-for-carers-and-relatives/helpful-publications/

This information leaflet was designed in partnership with carers and young carers. The Trust worked collaboratively with Sheffield Young Carers Project, Sheffield Carers Centre and Chilypep to develop the leaflet and we would like to acknowledge their hard work, advice and support.
This information can be made available in a range of formats on request (e.g. Braille, audio, larger print, BSL, easy read or other languages). Please contact the service the person you care for uses to obtain a different format.

**For Further Information Contact:**

Sheffield Young Carers Project on 0114 2584595


Sheffield Carers Centre on 0114 2728362

[www.sheffieldcarers.org.uk](http://www.sheffieldcarers.org.uk).

Carers Trust on 0844 800 4361 (local rate if calling from a landline, varies on mobiles)