



Advice and Information

Voice of Young People in Care (VOYPIC)
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PIPS (Public Initiative for Prevention of Suicide and Self Harm)
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Help & Support for Parents
Parents Advice Centre
Freephone Advice Line: 0808 8010722
www.pachelp.org

Useful Websites
Action Mental Health - www.amh.org.uk
CAUSE - www.cause.org.uk



The Children's Law Centre
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Disclaimer

The information provided in this leaflet is for guidance only and should not be regarded as an authoritative statement of the law. In all cases appropriate legal advice should be sought from a solicitor. The Children's Law Centre will not be held responsible for the use of information in this leaflet by individuals, organisations or agencies. The information contained in this leaflet is correct as of October 2009.

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Do you know your rights about ...
Mental Health Law



Provision of services

If you are assessed as being a 'child in need' then your local Health and Social Care Trust has to provide the services that are assessed as being necessary for you. You are a 'child in need' under the Children (Northern Ireland) Order 1995 if you are under 18 and it is unlikely that you will reach or maintain a reasonable standard of physical or mental health or development without services being provided for you and your health is likely to get significantly worse unless you get the help you need. You may also qualify as a child in need if you are disabled.

This means that if you are assessed as having mental ill health needs which require a particular mental health service to help you obtain a reasonable standard of mental health the Trust must try to provide that service. If you are not given access to a mental health service that is appropriate to your needs you can make a complaint to the Health and Social Care Trust. If the service is still not provided to you then you may be able to take legal action.

Being admitted to hospital for assessment

You can be detained in hospital to have your mental health assessed if a doctor who has seen you within the past two days believes that:

- you are suffering from a degree of mental disorder which warrants detention

AND

- there would be a substantial likelihood of serious physical harm to you or to other people if you are not detained in hospital

The application to have you detained for assessment in hospital can be made by your nearest adult relative (parent, brother or sister, grandparent, aunt or uncle, nephew or niece) or by your social worker, if you have one.

The maximum length of time that you can be detained in hospital to have your mental health assessed is 14 days.

Being detained in hospital for treatment

After the assessment period is over you can be detained in a psychiatric hospital if a psychiatrist (not the doctor who recommended detaining you for assessment) is of the opinion that:

- you are suffering from a mental illness/impairment of a nature or degree that warrants your detention in hospital for treatment

AND

- if you were not detained there would be a substantial likelihood of serious physical harm to you or other people

You can initially be detained for 6 months. This can be renewed for a further 6 months. After one year two doctors must consider your case and if they agree that the original grounds for your detention still apply then you can be detained for a further year. After this

your detention can be renewed each year.

Who can discharge you if you are detained in hospital?

The Responsible Medical Officer (who is the doctor in charge of your case) has a duty to discharge you if he believes that:

- you are no longer suffering from a mental illness or severe mental impairment which warrants your detention in hospital for treatment
OR
- there is sufficient care available for you if you are discharged and the discharge would not create a substantial likelihood of serious physical harm to you or other people.

Your nearest adult relative can apply to discharge you by giving 72 hours written notice to the Health and Social Care Trust **BUT** the Responsible Medical Officer can stop you being discharged if they believe that:

- your discharge would cause a substantial likelihood of serious physical harm to you or others
OR
- they believe that you would not receive proper care if discharged.

If the Health and Social Care Trust prevents your discharge from hospital you can appeal this decision to a **Mental Health Review Tribunal**. This is a panel appointed to review the cases of people who are detained in hospital under the Mental Health (Northern Ireland) Order 1986. A Mental Health Review

Tribunal has 3 members, a legally qualified chairperson, an independent psychiatrist and a lay-person who is not a doctor or a lawyer.

Your rights whilst detained under the Mental Health (Northern Ireland) Order 1986

ALWAYS seek legal advice about your rights.

- You have the right to information about which provision of the Mental Health (Northern Ireland) Order 1986 you are being detained under, about your right to apply to a Mental Health Review Tribunal and your right to make representations to the Regulation and Quality Improvement Authority for Northern Ireland (RQIA). The RQIA is an independent body responsible for monitoring and inspecting health and social care services in Northern Ireland and encouraging improvements in the quality of those services.
- You have the right to send and receive correspondence (outgoing mail can be restricted if the person to whom it is addressed has requested that they do not receive correspondence from you).
- You have the right to complain about any aspect of your care while you are detained in hospital.
- You have the right to request a leave of absence from the hospital. This is granted at the discretion of the Responsible Medical Officer.

- You have the right to have the grounds of your detention reviewed by a **Mental Health Review Tribunal**:
- **You can apply to have the grounds for your detention reviewed by a Mental Health Review Tribunal at any time**
- If you are aged under 16 you will automatically be referred to the Tribunal after one year of being admitted to hospital and every year after that
- If you are aged 16-18 you will be automatically referred to a Tribunal every two years

The application to the Tribunal:

- must be in writing
- must contain your name and address
- must contain the name and address of your nearest adult relative, or social worker, if they have made the application to the Tribunal
- must contain the name and address of your representative who might be your solicitor or another advocate

Once the Tribunal receives your application it must notify the responsible authority (hospital) who must within three weeks send a statement to the Tribunal containing your full details and your reports. Copies of all documents must be sent by the Tribunal to your representative who in turn can write to the Tribunal about your case.

Before your hearing the medical member of the Tribunal will examine your medical records. You have the right to obtain an independent medical report about yourself. Your hearing will be in private and the Tribunal will hear evidence from all witnesses

it thinks necessary. The Tribunal's decision may be given immediately or given in writing within 14 days.

Legal Aid may be available to pay someone to represent you at Mental Health Review Tribunals.

When and to whom might you have to disclose a mental disorder?

If you were detained for **assessment** in a psychiatric hospital you do not have to disclose this unless you are directly asked about the assessment in the course of court proceedings.

If you are detained in a psychiatric hospital for **treatment** then you **may** have to disclose a mental illness:

- To an employer: but the employer cannot make decisions about your employment based on that disclosure
- To the DVLI: if you wish to apply for a driving licence
- To an insurance company: failure to disclose your full medical history to an insurance company may result in the insurance company not covering you against a claim on your insurance
- When applying for a visa to go to the USA

For further guidance on whether you need to disclose a mental disorder contact the Children's Law Centre, details overleaf.

You should ALWAYS seek legal advice about your rights.