

Chapter 6:

Your rights

Chapter summary:

In this chapter we review:

- n Your rights to health and care services
- n Your rights in hospital including appealing against your detention
- n The role of the Mental Health Tribunal
- n How to complain about your treatment
- n Advice and help including advocacy and legal services

Mental health services

If you experience severe and enduring mental health problems you are eligible for an assessment for care and treatment from Haringey's Mental Health Service. Your views will be taken into account in this assessment and you will be treated with respect and consideration. You have a right to information about the treatment offered to you, its effects and side effects. You have a right to equal access to effective services whatever your race, ethnic or national origin, creed, gender, age, marital status or sexuality.

Health care

If you need health care you have a right to medical treatment through your family doctor, who may refer you to specialist psychiatric services. You can ask your family doctor to refer you to a psychiatrist, either for treatment or for a second opinion.

Hospital treatment as an in-patient may be provided if your psychiatrist decides this is necessary. The government has directed that "if a patient's minimum needs for treatment in the community cannot be met, in-patient treatment should be offered or continued". This means your treatment will continue in hospital.

Community care

Haringey Council's social services have a legal duty to assess the community care needs of people with mental health problems. It also has a duty to make sure that services are provided for those people who have been assessed as in need and who meet the eligibility criteria. This will be done in partnership with health services. In practice, the eligibility criteria means that mental health social workers will only work with people who have severe and enduring mental health problems. Services may be provided directly by the council or by voluntary or private organisations.

Aftercare

The local authority and local health authority are responsible for ensuring you are supported back into the community under Section 117 of the Mental Health Act (MHA) 1983, following a discharge from a treatment order (Section 3) or a hospital order made by the courts (Section 37).

A care co-ordinator is appointed (usually a specialist mental health social worker or a community mental health nurse) who will organise regular meetings with you, your family, friends and advocate and with other care professionals to review your care plan. These meetings should co-ordinate the services necessary for your developing stability and improved quality of life.

Care Programme Approach (CPA)

Although similar to Section 117, the CPA is not a legally imposed system. All people getting a CPA will be asked to sign it and will be given a copy. It will help you in the following ways:

- n You will know that your discharge is planned
- n You will be informed, involved and helped in putting the care plan together and saying what is important to you
- n You will have the right to information and feedback about assessments and plans which relate to you
- n You will have the security of knowing who to turn to if you have a crisis.

Access to records

You have a right to see any of your records that are kept by Haringey Social Services and Barnet, Enfield and Haringey Mental Health NHS Trust. If you disagree with anything in your records, you may ask to have it changed or deleted. If this is not carried out, you have the right to require that a record be made of your objection and your point of view.

Your rights in hospital

Compulsory admission and patients' rights

The majority of people in psychiatric hospitals or units are in hospital voluntarily. These are called 'informal' patients. They have the same legal right as any other hospital patient and are free to discharge themselves from hospital if they wish. However, under certain circumstances a doctor or nurse could require a patient to stay for a short period of time for a formal assessment.

Some people are detained compulsorily in hospital under the Mental Health Act 1983. They are called 'formal' or 'sectioned' patients. Most formal patients have been admitted following an application by a social worker. A few are admitted through the criminal courts, when they have committed an offence but are believed by the court to require hospital treatment.

Being a formal patient does not mean that you have no rights. Your legal rights will vary, depending on the section of the Mental Health Act under which you are detained. There are procedures under which you can appeal against your detention or make complaints. There are procedures relating to consent to treatment or other authorisation of medical treatment. You must be informed of your rights when you are admitted under the Mental Health Act and written leaflets in a range of languages are available in the hospital to explain your rights. Copies of leaflets are sent to the patient's nearest relative, unless the patient objects.

Appeals

If your detention could continue for more than 72 hours you have rights to appeal against your detention. If you are on a Section 2 you can appeal at any time during the first 14 days of your section, and your hearing will take place within a week of appealing. If you are on a section 3, you can appeal once during any period of detention and the hearing will normally take place within eight

weeks. Other patients on sections lasting more than 72 hours also have rights to appeal. All patients on relevant sections are given leaflets that give details about their rights to appeal. Staff have a legal duty to ensure that they understand this information and that they receive any necessary help in order to exercise their rights of appeal. If you wish to appeal, you will be encouraged to contact a solicitor, whose services in relation to your appeal will be paid through Legal Aid, without means testing.

Patients on sections lasting only 72 hours do not have the right to appeal.

If you wish to appeal against your section, you should inform the ward staff who will provide a standard form for this, or you may prefer to do this through a solicitor. Ward staff will be able to give you a list of specialist solicitors who work in the London area.

You can appeal to the Mental Health Review Tribunal (MHRT) or to the hospital managers, or both. Both the Tribunal and the hospital managers are independent of the hospital and will listen to the arguments for and against your being discharged.

When you appeal to the Mental Health Review Tribunal, a panel consisting of a lawyer, a psychiatrist and lay person hears your appeal. The Tribunal is an independent statutory body that operates like a mobile court, to hear appeals.

[Mental Health Review Tribunal](#)

133-155 Wellington House LG01

Waterloo Road

London SE1 8UG

Website: www.mhrt.org.uk/mhrt/mhrtweb.nsf

The remainder of the information given below applies to both types of hearing.

What happens at the hearing?

You have the right to be present at both types of hearing and to be legally represented by a solicitor who specialises in mental health. You do not need to pay for your legal representation.

The hearing is always in private, although your 'nearest relative' is allowed to attend, and may be asked if they want to say anything. Written reports on medical, nursing and social circumstances will be provided to the panel members, you and your solicitor before the hearing. In the case of a Tribunal, the medical member of the MHRT will examine you before the hearing and may make copies of notes. Their solicitor may request an independent psychiatric report.

Any information that could be harmful to your health or safety or to the health and safety of others should be submitted in a separate confidential report. Confidential reports should include the reasons why the information should be withheld from you. The Tribunal or hospital managers will decide whether or not you should have access to this information.

Your solicitors will see all the reports written for the MHRT or hospital managers. The Tribunal or hospital managers may order that you see reports marked confidential, unless they consider that it might adversely affect your welfare or safety or that of others. The MHRT has the legal right to obtain any information it thinks necessary and to call witnesses.

When does the MHRT or Managers' Panel make its decision?

The MHRT or Managers' Panel normally makes its decision at the end of the hearing and tells the person or their legal representative what it is verbally, following this up with written reasons a few days later.

What are the powers of the MHRT or hospital managers?

The principal powers of the MHRT and the hospital managers are essentially the same. They may:

- n discharge a detained person from hospital immediately or after a short further period of detention
- n recommend leave of absence
- n recommend supervised discharge
- n recommend that the period of detention continue unchanged
- n recommend transfer to another hospital.

The MHRT or Managers' Panel can reconvene if any of their recommendations are not complied with and may at that stage rehear the case.

Can I appeal against a Tribunal or managers' decision?

There is no provision to appeal against a decision by hospital managers. There are only a few limited circumstances in which a Tribunal decision can be challenged in the High Court. If you are considering taking this action you will need expert legal advice. Legal Aid may be available in these circumstances.

Mind leaflets

Mind (National Association for Mental Health) publishes a series of useful pamphlets explaining the legal rights of patients.

Mind publications

Granta House
15-19 Broadway
Stratford E15 4BQ
Tel: 020 8221 9666
Fax: 020 8534 6399
Email: publications@mind.org.uk
Website: www.mind.org.uk

Complaints

You can complain about any aspect of your treatment and care, whether provided in the community or in hospital, by a NHS Trust or the council or by a voluntary organisation. Carers and relatives can also complain about your care, and such complaints will always be investigated. However, the response to any complainant other than yourself will not contain confidential information about your care without your consent.

If you are unhappy about any aspect of your care, or about the care of a relative or friend, the most straightforward approach is usually to raise the matter with the staff responsible. Staff will discuss your concerns with you and will often be able to resolve the matter immediately. If you remain dissatisfied, or if you prefer not to raise the matter directly with staff, you can write to the chief executive or another manager of the organisation providing the service, or contact the relevant complaints officer by letter or telephone. The organisation will then conduct an investigation and get back to you with a written response.

If you are unhappy with the response to your complaint, you can take the matter further. In the case of complaints against a NHS organisation, you can refer your complaint to the Healthcare Commission, who will decide whether a further investigation is required. When complaints cannot be resolved, they may be considered by the health service or Local Government Ombudsman.

For complaints about NHS services in Haringey, or for information about how to take a NHS complaint further, you can contact the Complaints Office at St Ann's Hospital:

[Barnet, Enfield & Haringey Mental Health Trust](#)

Complaints Office
K1, St Ann's Hospital
St Ann's Road
London N15 3TH

Phone: 0208 442 6765
Fax: 0208 442 6239
Email: barrett.king@beh-mht.nhs.uk

Haringey Teaching Primary Care Trust (HTCPT)

Complaints Manager
Block B1, Trust Headquarters
St Ann's Hospital
St Ann's Road
Tottenham N15 4BN
Tel: 020 8442 6860
Website: www.haringey.nhs.uk

For complaints about services provided by Haringey Council, you can contact the relevant council complaints team or write to its chief executive:

Social Services

Complaints Team
FREEPOST LON 18635
Wood Green N22 7BR
Tel: 020 8489 3398
Fax: 020 8489 3329
Email: socialservices.complaints@haringey.gov.uk
Minicom or textphone on 020 8489 3159
Website: www.haringey.gov.uk

Housing Services

Complaints Team
6th Floor, River Park House
225 High Road
Wood Green N22 8HQ
Tel: 020 8489 4337/4321/4235
Fax: 020 8489 2844
Email: housing.complaints@haringey.gov.uk
Minicom or textphone on 020 8489 4306
Website: www.haringey.gov.uk

The Children's Service

Complaints Team

FREEPOST LON 18635,

Wood Green N22 7BR

Tel: 0800 073 0701

Fax: 020 8489 3850

Email: youngpeople.complaints@haringey.gov.uk

Minicom or textphone on 020 8489 3326

Website: www.haringey.gov.uk

Residential or nursing homes

If you have a concern about a residential or nursing home you can contact the local Commission for Social Care Inspection office which covers Haringey, Enfield and Barnet.

Commission for Social Care Inspection

Solar House

282 Chase Road

Southgate N14 6HA

Tel: 020 8447 6930

Fax: 020 8447 6966

Website: www.csci.org.uk

Help making a complaint

If you need help in making a complaint, you can contact the Independent Complaints Advocacy Service (ICAS), who will explain your rights and may help you to deal with the relevant authorities.

ICAS can be contacted on 0845 120 3784.

Where the concern relates to a period when the patient was detained under the Mental Health Act, the complaint may also be raised through the Mental Health Act Commission (see previous chapter).

These complaints can be made directly to a Commissioner during one of the regular Commission visits to the hospital, or by writing to:

Mental Health Act Commission

Maid Marian House
56 Hounds Gate
Nottingham NG1 6BG
Tel: 0115 943 7100
Fax: 0115 9437101
Website: www.mhac.org.uk

PALS Manager

Haringey TPCT
Block B1, St Ann's Hospital
St Ann's Road
Tottenham N15 3TH
Tel: 020 8442 6859
Email: pals@haringey.nhs.uk
Website: www.haringey.nhs.uk

Service: PALS provides confidential advice and information about local health services. It can help and support patients, families and carers to make suggestions or raise concerns about local health services in an informal way.

Representation and advocacy

When you experience mental distress it can be difficult to communicate your needs or wishes, or to assess information about the options available to you. Advocacy is the means by which your views and wishes are heard, by:

- n Self advocacy: speaking up for yourself
- n Involved advocacy: having a friend, carer or relative, speak for you
- n Citizen advocacy: having an independent unpaid person speak for you
- n Legal advocacy: having a lawyer speak for you

- n Professional advocacy: having a paid advocate or a health or social welfare professional speak for you
- n Peer/group advocacy: having a group speak on behalf of its members.

Advocates are trained to help you access information on legal rights, treatment options or services so that you can make an informed decision and ensure your wishes are known. Advocates are often users or ex-users of mental health services, working voluntarily or as paid workers.

- n An independent advocate's sole responsibility is to the service user.
- n Health, social or legal workers can assist a user in some matters, but their professional or legal responsibilities may conflict with the user's interest.
- n Similarly, a relative may have personal interests that may conflict with the user's wishes.
- n Therefore an independent advocate must be - and be seen to be - independent of any agency providing services to the user.
- n People such as: lawyers, counsellors, social workers, health care workers or 'authorised representatives' are not independent advocates.

Local advocacy services

Mind in Haringey Advocacy Project

Station House

73c Stapleton Hall Road

Stroud Green N4 3QF

Tel: 020 8340 2474

Service: As well as a general service, Mind in Haringey provides specialist advocacy for African and African-Caribbean people.

St Ann's Hospital Patients Council

St Ann's Hospital

St Ann's Road

Tottenham N15 3TH

Tel: 020 8442 6843

Service: An independent service user group working to put forward the views of people using mental health services.

Legal representation

In any situation where an offence has been alleged, where you have been arrested or are obliged to attend a police station, legal representation can be crucial. The Law Society can provide a list of local solicitors.

Community Legal Service

Tel: 0845 345 4 345

Website: www.clsdirect.org.uk

Service: The Community Legal Service has been set up to help you find the right legal information and advice. You can get help through a network of organisations, including Citizens Advice Bureaux, Law Centres, many independent advice centres and thousands of high street solicitors.

Hornsey Citizens Advice Bureau

Hornsey Town Hall

Crouch End Broadway

Crouch End N8 9JJ

Tel: 0870 126 4030

Turnpike Lane Citizens Advice Bureau

14a Willoughby Road

Turnpike Lane N8 0JJ

Tel: 0870 126 4030

Tottenham Citizens Advice Bureau

Town Hall Approach Road

Tottenham N15 4RY

Tel: 0870 126 4030

Inquest

89-93 Fonthill Road
Finsbury Park N4 3JH

Tel: 020 7263 1111

Fax: 020 7561 0799

Email: inquest@inquest.org.uk

Website: www.inquest.org.uk

Service: Inquest provides an independent free legal and advice service to bereaved families and friends on the inquest system. It offers specialist legal advice to lawyers, bereaved people, advice agencies, policy makers, the media and the general public on contentious deaths and their investigation.

The Law Society

Ipsley Court
Berrington Close

Redditch

Worcs B98 0TD

Tel: 020 7242 1222

Website: www.lawsociety.org.uk

Tottenham Law Centre

754 - 758 High Road

Tottenham N17 0AL

Tel: 020 8808 5354

Fax: 020 8801 1516

Email: Tottenhamlawcentre@tiscali.co.uk

Service: Legal advice and information on housing, debt, welfare benefits and immigration issues for people in receipt of benefits or on a low income.