

Guardianship Mental Health Act 1983 Information for patients

Introduction

This leaflet gives you information for patients under guardianship (section 7 of the Mental Health Act).

What is Guardianship?

Guardianship is used to enable a person to receive care outside of hospital where it cannot be done without the use of the powers of the Mental Health Act (Section 7).

Why am I under Guardianship?

You are under guardianship because you have been assessed as having a mental disorder and the doctors and other professionals responsible for your care feel that it is in the best interests of your welfare.

As part of the process of deciding whether you should be under guardianship you will have been assessed by an Approved Mental Health Professional (AMHP) and two doctors.

What does Guardianship mean?

You may well have already been involved in meetings about what guardianship will mean for you.

However, in most cases guardianship will mean the following:

- You will need to live at a specified address.
- You will need to be seen regularly by professionals involved in your care, for example, a nurse, social worker, or a doctor.
- You will need to attend a place specified for treatment, occupation, education or training.
- The period of guardianship will last for six months and it will then be reviewed by the doctors and other professionals in charge of your care.

What can I do if I am unhappy about being under Guardianship?

You have the right to appeal against guardianship.

You can do this by asking your named care coordinator for assistance in requesting an appeal.

If you do not know who your named Care Co-ordinator is, please ask the Approved Mental Health Professional (AMHP) who is involved in your care.

The care coordinator will be able to provide you with advice about how to contact the Mental Health Review Tribunal.

The Tribunal will consider whether guardianship can be ended.

What is the Mental Health Review Tribunal?

The Tribunal can take place any time in the next 6 months.

If at the end of your current period of guardianship your doctor thinks that you need to stay under guardianship for a further 6 months, you can apply again to the Tribunal.

After that, you can apply every year you are still kept under guardianship.

There are usually three people on the Tribunal—a lawyer, a psychiatrist (doctor) and a third person who is not a doctor. If you ask the Tribunal to look at your case the Tribunal will probably ask to see you and your doctor.

If the Tribunal sees you, they will be able to make sure that they have full details of the case, and you can tell the Tribunal why you want to leave guardianship.

You do not have to see the Tribunal if you do not want to. The Tribunal will listen to what you and your doctor say, and to what everyone else says, and then decide if you can leave guardianship.

You can also ask someone, including a solicitor, to help you to ask the Tribunal to look at your case and to help you put your views to the Tribunal.

Because of the legal advice and assistance scheme this solicitor's help may be free or it may only cost you a little.

What is meant by the term Nearest Relative?

The AMHP in who has a role in your care will have consulted your Nearest Relative about the use of Guardianship.

The term nearest relative is defined under the Mental Health Act 1983 and it is not the same as the next of kin.

Who is the Nearest Relative?

The following definition should be taken as guidance only and for further clarification you may wish to discuss this with your AMHP.

The nearest relative can apply to a Tribunal once each year you are held under guardianship.

The nearest relative can change with a person's social circumstances, e.g. who the person lives with and/or who provides care on a regular basis. However, generally the nearest relative is the eldest of whoever appears first on this list:

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

Non-relatives can be defined as being the nearest relative where they have lived with the patient for five or more years. Co-habitees/partners of more than six months will count as husband, wife or civil partner.

Who do I speak to for more information?

If you need any further information please speak to the Approved Mental Health Professional (AMHP) involved in your care. They can help you find out further information.

