

How does the Mental Health Act benefit patients?

The *Mental Health Act 2014* (the Act) makes changes to the compulsory assessment and treatment of patients to put individuals, families and carers at the centre of mental health treatment and care. A 'compulsory patient' is defined as a person subject to an Assessment Order, Temporary Treatment Order or a Treatment Order under the Act. The objectives of the Act include promoting recovery, patient decision-making and participation in the community.

Patients can make and participate in treatment decisions



The informed consent of a patient must be sought before treatment can be administered to that patient. Patients must be presumed to be able to make decisions about their own treatment, unless it is established that the person lacks capacity at the time the decision needs to be made. Patients will be supported to make or participate in treatment decisions and to have their views and preferences considered and respected.

Supporting patients to understand their rights



As part of the broader mental health reforms, the Government will fund advocacy services to assist patients to participate in decisions about their assessment, treatment and recovery and to exercise their rights.

Patients must be given a statement of rights when a compulsory treatment order is made and have the information explained to them. Patients may also discuss their treatment and care with community visitors who routinely visit mental health services.

Patients can ask a person to receive information and provide support



A patient will be able to nominate a person to receive information and to support them for the duration of the compulsory treatment order. The nominated person will assist a patient to exercise their rights and communicate their views and preferences. The nominated person will be consulted at critical points during the patient's treatment such as when a person enters and leaves a service.

Patients can make an advance statement about treatment



Patients may make an advance statement to record their treatment preferences in the event that they become unwell and require compulsory treatment. The authorised psychiatrist must have regard to the advance statement when treatment decisions are made.

Patients can seek a second psychiatric opinion



Patients may seek a second psychiatric opinion about their treatment at any time. A patient may apply to the Chief Psychiatrist for a review of their treatment in the event that the authorised psychiatrist does not adopt any recommendations contained in a second psychiatrist opinion report.

Targeted criteria for compulsory treatment



The Act sets out criteria for providing compulsory assessment and treatment. The criteria have been designed to make sure that compulsory assessment and treatment are only used when there is no less restrictive means reasonably available to ensure a person receives immediate assessment and treatment.

The criteria provide clear guidance to patients, clinicians, families and carers about when compulsory assessment and treatment is required.

Compulsory treatment orders with maximum duration



The Act sets out the maximum duration for compulsory treatment orders. A Temporary Treatment Order has a maximum duration of 28 days. An Inpatient Treatment Order has a maximum duration of six months and a Community Treatment Order has a maximum duration of 12 months. A young person under 18 years may only be placed on a Treatment Order for a maximum of three months.

A patient may apply at any time to the Mental Health Tribunal for revocation of a compulsory treatment order.

Independent oversight of compulsory treatment orders



The Tribunal will be an independent body that replaces the Mental Health Review Board and the Psychosurgery Review Board. The principal role of the Tribunal will be to make Treatment Orders for patients. The Tribunal must be satisfied that all the treatment criteria apply to the patient.

The responsibility of the Tribunal to make Treatment Orders will assist the authorised psychiatrist to work with patients in ways that promote recovery-oriented mental health treatment.

Independent oversight of electroconvulsive treatment for patients without capacity and young people



Electroconvulsive treatment (ECT) is an effective treatment for severe depression and some other mental illnesses. An adult compulsory patient with capacity may consent to or refuse ECT without requiring Tribunal approval. This respects the autonomy of patients with capacity. If a patient does not have capacity to give informed consent, ECT may only be performed on the patient with the approval of the Tribunal.

The Tribunal will also hear and determine applications for performance of ECT in relation to all compulsory and voluntary young people¹. This will apply to young people receiving mental health treatment through the public or private mental health systems.

The Tribunal may only approve ECT if it is satisfied that there is no less restrictive way for the patient or young person to be treated.

Independent specialist Mental Health Complaints Commissioner



The Mental Health Complaints Commissioner (Commissioner) will receive, manage and resolve complaints about mental health service providers. The Commissioner will provide an accessible, supportive and timely complaints mechanism that will be responsive to the needs of people with mental illness. A patient or other person on their behalf can make a complaint to the Commissioner.

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¹ 'young person' is a person under 18 years of age.