

Mental Capacity Act 2005 (MCA)

Some people who are not detained under the MHA but have difficulty making decisions may be subject to the provisions of the Mental Capacity Act (MCA).

Having mental capacity means being able to make your own decisions about something.

If you are assessed to not have capacity to make a particular decision, the care team will refer to any Advance Decision to Refuse Treatment (ADRT) that you may have made, and find out if there is someone whom you have granted powers to make decisions on your behalf under a Lasting Power of Attorney (LPA). If there is no relevant ADRT or LPA in place, then the MCA allows the care team to make a decision for you and act in your best interest to prevent harm.

If the MCA applies then in certain circumstances staff maybe able to prevent you from doing some of the things you may seem to want to do, including leaving the ward.

If the care team consider they are depriving you of your liberty they will apply the Deprivation of Liberty procedures within the Mental Capacity Act.

Staff are trained in issues of mental capacity and have information they will be happy to share with you and/or your family.



Sussex Partnership
NHS Foundation Trust

Your rights as an informal patient

This leaflet tells you about your rights as an informal patient

Who is an informal patient?

An informal patient is someone who has agreed to come into hospital for assessment and/or treatment for acute mental health difficulties, or someone who was detained under the Mental Health Act (MHA), but their section has ended and they have remained on the ward.

As an informal patient, you have certain rights during your stay on the ward.

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What are my rights regarding care and treatment?

You have agreed to come into hospital to receive care, treatment and therapy for your mental health difficulties.

While you are in hospital we have a duty of care towards you. This means that your wellbeing is central to the care we provide and that all treatment we discuss and give must be beneficial to you.

You should be given all of the information you need in order to make an informed choice about the treatment. You will not be given any treatment without your agreement. If you do agree to treatment you can change your mind at any time. If you do change your mind we hope you can tell us why.

Can I leave the hospital?

As an informal patient you are not subject to any restrictions about leaving the ward. You are free to leave at any time.

We have a responsibility for all patients so we do request that you inform a member of the nursing staff if you wish to leave.

On occasions, the ward door may be locked but this is not to prevent you from leaving. You have the right to request that the door is opened to allow you to leave.

When you leave the ward, the staff will ask you when you expect to return. This is because we have a duty of care towards you.

Discharge

If you want to discharge yourself from hospital please discuss this with the staff team. They will give you advice, based on how you are feeling, as to whether your discharge is wise or not. If the doctors or nurses feel that it is an unwise decision but you do not fulfil the criteria for detention under the Mental Health Act, they will ask you to complete a 'Discharge against medical Advice' form.

If there are concerns about you leaving

If clinical staff consider your decision to leave to be unwise they will explain their concerns to you so that you may take these into account when making your decision.

If there are concerns about you leaving and the team are worried for your welfare then they can stop you from leaving by using the MHA.

Under Section 5 of the MHA doctors/approved clinicians and nurses have the power to prevent you from leaving the ward if there are serious concerns and you insist on leaving. Concerns include the possible harm that may occur to you or others and your overall welfare. The Section 5 holding powers last for up to 72 hours (doctors/ approved clinician holding power) or 6 hours (nurses holding power). This is to allow time for a MHA Assessment to be completed.

If these powers are implemented there are systems under the MHA which are used to protect you and your rights and you will be informed of these if they are going to be applied to you.

Concerned about discharge from hospital?

If you are worried about being discharged from hospital, please speak to your nurse or doctor. You may also wish to speak to an advocate about your concerns.

Advocacy support

Information about advocacy support for you, including at review meetings, is available on the ward. If you would like support to contact an advocate please speak to your nurse or doctor.