

OCD – DETENTION AND INFORMAL ADMISSION TO HOSPITAL (NORTHERN IRELAND)

Please note this information covers Northern Ireland only. For leaflets regarding detention and informal admission in England, Wales and Scotland please see the relevant leaflets available at www.ocdaction.org.uk.

OCD affects 1-2% of the general population, although most people living with the condition do not enter hospital. There may however, be times when you become so unwell that family, friends, colleagues or healthcare professionals are concerned about you. If this happens, a medical practitioner may discuss with you the idea of going into hospital so that you can be assessed for treatment, or so that treatment can be more closely monitored or changed, or so that more intensive therapy can be given.

VOLUNTARY/INFORMAL ADMISSION

Some people may decide to go voluntarily into hospital (frequently referred to as 'informal' patients). If you are an 'informal' patient, you can decide to leave hospital at any time, unless you subsequently become placed under an Article of the Mental Health (Northern Ireland) Order 1986. As an informal patient, you can also decide whether or not to take medication or receive therapy.

If it is felt however, that you are so unwell that your life, or the lives of others, are at risk you may be assessed for detention under the Mental Health (Northern Ireland) Order 1986.

Individuals suffering from obsessive-compulsive (otherwise known as Anankastic) personality disorder, as distinct from obsessive-compulsive disorder, cannot be detained in Northern Ireland as personality disorders are excluded from the definition of "mental disorder" by Article 3(2) of the Mental Health (Northern Ireland) Order 1986.

COMPULSORY DETENTION

If you are detained, it can be a very distressing time but mental health professionals are trained to handle these situations sensitively. Furthermore, if you are detained you are safeguarded by a number of rights: if you are detained under Article 4 or Article 12 of the Mental Health (Northern Ireland) Order 1986 (and under some Articles regarding criminal proceedings) then you have the legal right to appeal against your detention (within specified time frames) with the assistance of a solicitor; and you also have the support of a service regulator called the Regulation and Quality Improvement Authority (RQIA).

If you do not speak English, it is not your first language or you have other communication difficulties there is a duty on the professionals and hospital staff to

provide an interpreter, or suitable support, so that you can understand your detention and your rights.

ARTICLES OF THE MENTAL HEALTH (NORTHERN IRELAND) ORDER

Admission for Assessment – Article 4

Under Article 4 of the Mental Health (Northern Ireland) Order you may be detained for assessment where you are found to be:

- “Suffering from mental disorder of a nature and degree which warrants the detention of the patient in hospital for assessment (or for assessment followed by medical treatment);”

and

- “failure to so detain the patient would create a substantial likelihood of serious physical harm to himself or to other persons.”

Your legal adviser will be able to discuss with you more about the detention criteria in your particular case.

Under Article 4 you can be detained for up to 14 days (which starts from the day of admittance). Article 4 cannot be renewed beyond 14 days, although you could be detained under another Article of the Mental Health (Northern Ireland) Order or stay in hospital as an ‘informal’ patient.

Whilst you are detained under Article 4 your detention should be renewed after 48 hours (if at the time of admission to hospital the Registered Medical Officer, or another appropriate doctor was not present). Your detention should then be reviewed after 7 days and again before the 14-day period ends.

Either your ‘Nearest Relative’ or an Approved Social Worker will initially make an application for admission. This application will then need to be supported by a medical recommendation. Your GP, or another ‘partner or locum’, will generally carry out a medical recommendation for detention under Article 4. A doctor who works in the hospital where you are being admitted can only provide this medical recommendation in an emergency. If a medical recommendation is not given then you cannot be detained under Article 4.

Admission for Treatment – Article 12

Under Article 12 of the Mental Health (Northern Ireland) Order, you can be detained for treatment. To be detained under Article 12 a medical practitioner (usually a Consultant Psychiatrist) will need to examine you and issue a report, which states that:

- a) “the patient is suffering from mental illness or severe mental impairment of a nature or degree which warrants his detention in hospital for medical treatment;

and

- b) that, in his opinion, failure to so detain the patient would create a substantial likelihood of serious physical harm to himself or to other persons;

and

- c) such particulars as may be prescribed of the grounds for his opinion so far as it relates to the matters set out in sub-paragraph (a);

and

- d) the evidence for his opinion so far as it relates to the matters set out in sub-paragraph (b) specifying whether other methods of dealing with the patient are available and, if so, why they are not appropriate,”

Your legal adviser will be able to discuss with you more about the detention criteria in your particularly case.

You can be detained under Article 12 for up to a period of 6 months. This detention can then be renewed for a further 6 months where a medical officer (usually a consultant psychiatrist) identifies that the criteria in Article 12 are still met.

Application for Assessment – Article 7

If you are an ‘informal’ inpatient in either a general or mental health hospital and a medical practitioner (usually a consultant psychiatrist) decides that an application for assessment should be made then the medical practitioner will need to submit an appropriate report. Once the medical practitioner has submitted their report you can be detained for up to 48 hours.

If a doctor is not immediately available but a nurse believes that an application for assessment should be made and you are receiving treatment in hospital as an ‘informal’ inpatient, you can be held for a period of up to 6 hours.

DISCHARGE FROM DETENTION

If your consultant psychiatrist identifies at any point that you no longer meet the detention criteria you will be discharged from your detention. You then have the right to leave hospital or you could discuss staying in hospital as an informal patient.

If you are detained under Article 4 or 12 you can appeal to the Mental Health Review Tribunal for Northern Ireland to review your detention. You have this right of appeal any time within your initial six months of detention. If your detention is subsequently renewed for a further six months, you are again able to apply to the Mental Health Review Tribunal for Northern Ireland to review your detention.

If the Mental Health Review Tribunal for Northern Ireland rules that, you should be discharged from your detention you will have the right to leave hospital, or to stay as an informal patient.

Since December 2010, in Northern Ireland, you are entitled to free Mental Health Review Tribunal advice and representation from a legal adviser. Your solicitor can: provide you with information on your rights; make a written application for a Tribunal hearing; gather evidence; and then represent you at a Tribunal.

NEAREST RELATIVE

The law sets out who your Nearest Relative is at Article 32 of the Mental Health (Northern Ireland) Order. The list of Nearest Relatives begins with a spouse but if you do not have a spouse, are separated permanently from your spouse or are separated by a court order your nearest relative will be the next applicable person on the list. This list continues with the following possible Nearest Relatives: child; parent; brother or sister; grandparent; grandchild; uncle or aunt; nephew or niece.

An approved social worker, a relative or someone who you last lived with (but who is not a relative) can make an application to the Court to request that you are assigned a new Nearest Relative.

Your Nearest Relative has the right to apply for your discharge from detention. They must initial write to the Trust requesting your discharge, if this request is declined, your Nearest Relative then has 28 days to apply to the Tribunal.

LEAVE OF ABSENCE

Even if you are detained in hospital, you may be given a leave of absence from the hospital, either for a specific occasion or period. Your Responsible Medical Officer (who is the doctor in charge of your care) is able to grant you this leave from hospital.

TREATMENTS UNDER THE MENTAL HEALTH (NORTHERN IRELAND) ORDER

You should be provided with information about your proposed/current treatment. Your consent should, wherever possible, be sought. However, if you are detained under certain Articles of the Mental Health (Northern Ireland) Order, some treatments for your mental disorder can be carried out even if you do not give your consent.

There are some safeguards in place to ensure that certain treatments are not given without extra criteria being fulfilled. Under Article 64 if you have received medical treatment for your mental disorder for a period of three months and you did not consent then a medical practitioner will need to provide a second opinion. Electro-convulsive therapy (ECT) also requires your consent or a second opinion from a medical practitioner. Treatments such as psychosurgery require both your consent and a second opinion from a medical practitioner.

ADVOCACY

Currently people detained under the Mental Health (Northern Ireland) Order do not have an automatic right to an Independent Mental Health Advocate (unlike in England, Wales and Scotland). You may still, however, be able to seek support from a mental health advocate, if there is a local service.

THE REGULATION AND QUALITY IMPROVEMENT AUTHORITY (RQIA)

In Northern Ireland, the Regulation and Quality Improvement Authority (RQIA) has a duty to maintain the rights of people detained under the Mental Health (Northern Ireland) Order. The RQIA carry out inspections on wards to monitor and regulate the quality of health and social services provided in Northern Ireland.

FUTURE CHANGES IN LEGISLATION

The Mental Health (Northern Ireland) Order has been extensively reviewed (known as the Bamford Review) and a Bill has been drafted which will soon replace the current piece of legislation. This Mental Capacity (Health, Welfare and Finance) Bill, which will replace the current Mental Health (Northern Ireland) Order, will cover both mental health and mental capacity and provide mental health service users with new rights. We will update this leaflet once the new legislation comes into force.

USEFUL WEBSITES

OCD Action: www.ocdaction.org.uk

The Northern Ireland Association for Mental Health: www.niamhwellbeing.org

Sane: www.sane.org.uk

Mind Wise: www.mindwisenv.org

The Regulation and Quality Improvement Authority (RQIA): www.rqia.org.uk

OCD Action takes every care to make sure that information is up to date and accurate, the charity however does not offer legal advice. Please consult a legal expert if you need specific legal information about your case.

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