

The Mental Health Act

**Know your Rights About
Conditional
and
Absolute
Discharge**



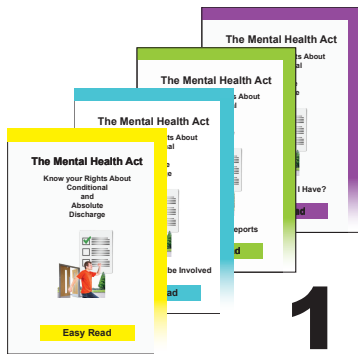
Easy Read



This is a leaflet about part of the Mental Health Act called conditional and absolute discharge.

There are 4 leaflets in this series which cover:

1. Know Your Rights About Conditional and Absolute Discharge.
2. People Who Might be Involved.
3. Meetings and Reports.
4. What Rights do I Have?



This is leaflet number 1.



You may like to have someone to support you when you look at this leaflet.

Some New Words

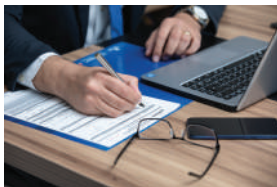


Conditional discharge means you no longer need to stay in hospital but there are conditions you are expected to follow.



Absolute discharge means you do not have any conditions that you are expected to follow.

Any contact you have with the mental health team is voluntary and you cannot be recalled to hospital. If there are concerns about your mental health after absolute discharge, you would need to have a new assessment under the Mental Health Act.



The Secretary of State for Justice

or **Ministry of Justice** They make decisions about conditional discharge, like if any of your conditions can be changed and if you should go back to hospital. They can also make decisions about absolute discharge.

Tribunal



A Mental Health Tribunal is a meeting to decide if conditions should be changed and if you should be absolutely discharged.



Responsible Clinician This is usually a doctor, nurse, psychologist, social worker or occupational therapist.



Social Supervisor This is usually a social worker. Their job is to protect the public and support you to go back into the community from hospital, especially if you have been in hospital for a long time.



Independent Mental Health Advocate They help people understand their rights under the Mental Health Act.

What is a Conditional Discharge?



After you have been in hospital as a restricted patient on a section 37/41 hospital order, you can be given conditional discharge.



A conditional discharge means you no longer need to stay in hospital, but there are conditions that you are expected to follow.



If the Secretary of State says you can leave, you will be given a document called a warrant that tells you what conditions to follow.



If the **Tribunal** says you can leave, the conditions will be in their decision which you can have a copy of.



The conditions to follow when you leave just apply to you.



They usually include conditions about where you live and how often you need to meet with health and social work staff who support you.

You may also have conditions about:



- Work or volunteering



- Medication



- Internet and use of technology



- People you cannot see



- Places you must not go



It is important to understand these conditions so you know what you can and cannot do.

People who can help you understand these conditions are your:



- Responsible Clinician
- Social Supervisor
- Independent Advocate
- Specialist Health Worker



You should discuss any worries or big changes as soon as possible with your social supervisor.

For example, if you want to:



- move house
- start a new job
- go on holiday outside of England or Wales.



Your conditions can only be changed by the Secretary of State or the Tribunal.

How long does a conditional discharge last?



There is no time limit. This means the conditions will apply unless you get an absolute discharge or it is agreed that they can be changed by the Ministry of Justice or Tribunal.

Recall



Your clinical or social supervisor can ask the Ministry of Justice to send you back to hospital for treatment. **This is called being recalled to hospital.**



This may happen if they think you are unwell and need treatment in hospital. It could also happen if they think you are a risk to others or may commit a crime that would harm someone else.



Breaking your conditions will not automatically lead to going back to hospital.



It is more likely to happen if people think you are breaking your conditions because you are unwell;

or

You are more likely to commit a crime that harms someone else as a result of breaking your conditions.



You may not be recalled if you choose to go into hospital yourself or agree to take more medication, depending on the risks and how long you will be in hospital.



You should be told why you are going back to hospital unless it is an emergency. You should always be told within **72 hours** of going back to hospital.



If you go back to hospital, your case must go to the Tribunal within **one month**.



You can get free help from a **solicitor** in this Tribunal.



If you are not discharged by this Tribunal, or the Secretary of State for Justice, you will stay in hospital on a section 37/41.

Absolute Discharge



If you are absolutely discharged, you do not have any conditions that you are expected to follow. Any contact you have with the mental health team is voluntary and you cannot be recalled to hospital.

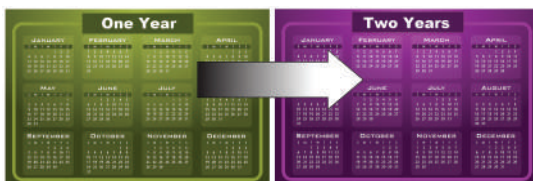


If there are worries about your mental health after absolute discharge, you would need a new assessment under the Mental Health Act.



You can apply for absolute discharge to:

- **the Mental Health Tribunal**
- **the Ministry of Justice.**



You can apply for a Tribunal once within 1 and 2 years of your conditional discharge, then again, every 2 years.



You can apply to the Secretary of State at any time by writing to the Ministry of Justice.

Will I get an absolute discharge?

Tribunal



The Mental Health Act says how a Tribunal decides to give an absolute discharge or not. They will look at:

- If you need to be kept in hospital for treatment;
- If your treatment in the community ended there would not be a risk to yourself or others;
- If you will need to be sent back to hospital in the future;
- What was your crime;
- How likely they think you are to commit a crime in future;
- How much harm that crime may do to others;
- How likely they think you are to become unwell in future;
- If they believe you may need to go back to hospital for treatment in future.



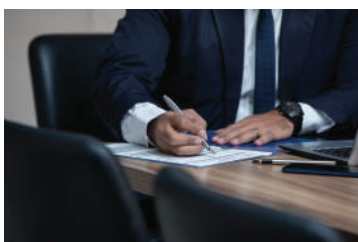
When will the Secretary of State give you an absolute discharge?



The Secretary of State does not have to follow the same conditions as a Tribunal. They will give an absolute discharge 'if he thinks fit'.

They will look at the same information as the Tribunal.

They will think about other decisions Tribunals have made for people like you.



They will also think about risk and other information in the reports. They may ask for more information from your care team or others.

Acknowledgements

With thanks to the following for their involvement in the creation of the 'Conditional Discharge: Your Rights', 'Conditional Discharge: A guide for family and friends' and the 'Conditional Discharge: A guide for Independent Mental Health Advocates' guidance:

Advocacy Focus.

Also

Christine Hutchinson - Consultant Nurse and Approved Clinician, as well as an Associate Director of Nursing for Learning Disability and Autism services within Lancashire.

Mike Nolan - Head of Team 2 in the Mental Health Casework Section, part of the HM Prison and Probation Service which is part of the Ministry of Justice.

Neil Allen - Barrister at 39 Essex Chambers and a Senior Lecturer at the University of Manchester.

Pathways Associates.

Those who are conditionally discharged for their participation in focus groups aiding in the development of the materials. Those who are family members and friends of those who are conditionally discharged who participated in focus groups aiding in the development of the materials.



*This document was published in December 2022,
please be aware that there may have been legislative changes since publication.