

The Mental Health Act

Know your Rights About Conditional and Absolute Discharge



What Rights do I Have?

Easy Read

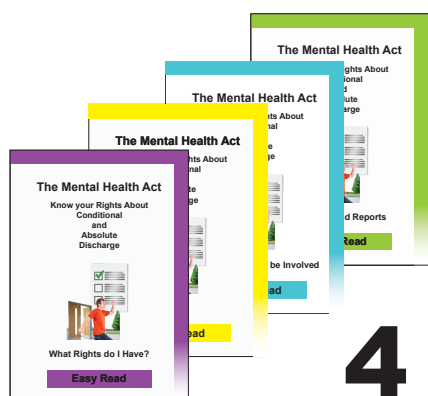


This is a leaflet about part of the Mental Health Act called conditional and absolute discharge.

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 4.



It is a leaflet about meetings and reports about your conditional or absolute discharge.



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

Some New Words

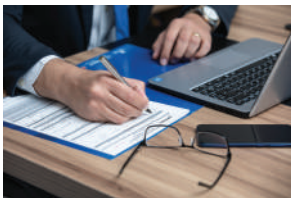


Conditional discharge means you no longer need to stay in hospital but there are conditions you are expected to follow.



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



Tribunal



The Secretary of State for Justice

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

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. They are responsible for your care and treatment under the mental health act.



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.

Conditional and Absolute Discharge

What rights do I have?



You should be given information about your conditional discharge and a copy of your warrant by the **Secretary of State**. If you were discharged by the **Tribunal**, you will be given a copy of their decision.



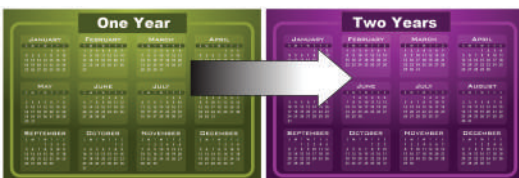
You can get free support from an **Independent Mental Health Advocate**.

Tribunal



You can apply to a **Tribunal** to change your conditions or ask for an **Absolute Discharge**.

If conditions are changed, then you should get an updated letter from the Tribunal or the Ministry of Justice.



You can apply to the **Tribunal** once between 1 and 2 years after your conditional discharge. You can apply again every 2 years after that.



You can also ask the **Ministry of Justice** to change your conditions.



You can get a solicitor free of charge to help you apply to the Tribunal.



You can ask the Secretary of State for Justice for an absolute discharge at any time.



They will ask your care team and others involved what they think. They may talk to victims if you are asking to change your conditions or be absolutely discharged



You can make a complaint if you are unhappy with your care or a decision by the Secretary of State.

The Mental Health Tribunal

Tribunal



This is a special court for people who are in hospital or are on conditional discharge.



Only **you** can apply to the Tribunal for absolute discharge.



Other people can ask that the Secretary of State refers your case to the Mental Health Tribunal. This is called a discretionary referral under Section 71(1).

Discretionary Referral Under Section 71(1).



You can get a solicitor to help you apply and to represent you. You do not have to pay for this.



Case Manager

Your care team will write reports for the Tribunal about your progress in the community. You can get access to these reports through your solicitor.



During the Tribunal, independent professionals will ask your care team questions.

Your solicitor can also ask questions.



You or your solicitor will be able to explain your views and wishes. You can ask the Tribunal panel for you and your solicitor to speak to them in private.



You can have the support of family and friends.



You can also have an Independent Mental Health Advocate.

Section 117 After-Care



A person on conditional discharge can get Section 117 after-care. This means that any support and treatment that is connected to their mental disorder is free while they are living in the community. The aim is to give the person the right amount of support to stay well enough to live in the community.

Examples include:



- Care and support: If the person is living in their own home, any care and support needed would be covered. This can include meeting social and cultural needs, social care and employment services.



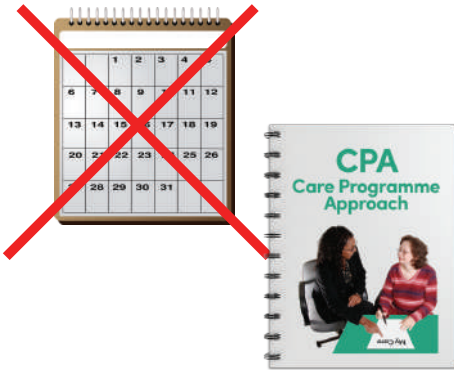
- Medication: any prescriptions for their mental health should be free, even if they pay for prescriptions for their physical health.



- Accommodation: the cost of renting, council accommodation, or buying their own home would not usually be included. Sometimes people's mental disorder requires specialist accommodation which might be covered.



The person may get direct payments. This means that instead of getting services, the person who helps them with money is given money to pay for their support. The person's social supervisor can explain more about this and see if they can get direct payments.



Section 117 after-care lasts for as long as the person needs support to stay well enough to live in the community. It should be regularly reviewed, maybe as part of the Care Programme Approach meeting. Friends, family and/or an Independent Mental Health Advocate can support the person during reviews.



Other Information

You may have other orders and/or conditions with a conditional discharge. You can ask your social supervisor if you want to know more information about these.

Deprivation of Liberty Safeguards

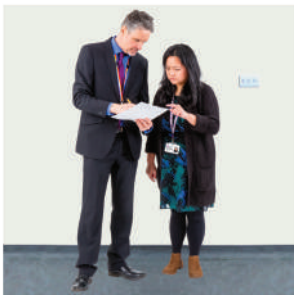


If you do not have capacity to choose where you live and you need to always be monitored, you may be deprived of your liberty.



Deprivation of Liberty is where people make decisions about:

- where someone lives
- how someone will be supervised and supported.



The person will need permission to go places, and staff will check where they have been. They may have to have someone with them.



Anyone can be deprived of their liberty – it can only be authorised in law for conditionally discharged patients if they lack capacity.



One of the mental capacity act rules is that you have a representative. This might be a friend, family member or independent advocate. They may be called a Rule 1.2 Representative or Relevant Person Representative.

They can help with any questions or problems.

Self-Help Resources



If you want to learn how to be your own best advocate, there are free online resources to help you:



Advocacy Focus App

<https://advocacyfocus.org.uk/services/my-focus-app/>



Advocacy Focus self-help resources

<https://advocacyfocus.org.uk/self-advocacy-toolkit/>

Acknowledgements

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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.