

## Carers and Carers Right's of Mentally Disordered Offenders

A carer of a person with mental health problems is an individual who assumes an unpaid and unanticipated responsibility for another, the patient, who has mental health problems that are disabling and of a long-term nature with no curative treatment available. The majority of carers are relatives, female, with two thirds mothers of patients. Carers are often the primary source of long term support for mentally disordered offenders in hospital and the community. These carers have higher levels of stress and have less contact with services compared with carers of non-offending patients with mental health problems (MacInnes, 2000).

In England and Wales, local authorities have a legal duty to inform carers of their right to a carer's assessment. Eligibility for carers' services is based on the risk to the sustainability to the caring role. This examines how much of an impact a lack of support has on the carer's ability to continue caring. The risks are graded as critical, substantial, moderate and low. Local authorities are asked to consider whether they will meet the needs of carers in the different risk bands. These findings should be recorded in a carer's plan.

The Code of Practice for the Mental Health Act 1983 (2008) states carers do not have an automatic right to receive information about the patient from the clinical team. The clinical team's duty of confidentiality to the patient means it depends on whether the patient consents to information being shared. The only exception to this is if a carer needs to be given information, as to withhold it might put themselves or others at risk of serious harm. The Code also states the patient's progress should be discussed with carers and they should also be involved as far as possible in the care planning process. The carer has no power to intervene in a patient's treatment whilst admitted under a section of the Mental Health Act 1983 (as amended 2007).

The Act uses the legally defined term Nearest Relative (NR). The NR has certain legal rights in relation to someone who is detained. The NR may also be different from the identified carer. A carer has no legal powers under the terms of this Act. The NR is normally identified by starting at the top of the list below and working down.

1. Spouse or civil partner
2. Children
3. Parent
4. Sibling
5. Grandparent
6. Grandchild
7. Uncle or aunt
8. Niece or nephew

However, where a patient is living with, or being cared for by, any person on the list, or has relatives on the list who live outside of the United Kingdom, this can effect who is identified as the NR. The NR can apply for a Mental Health Review Tribunal ~~for~~ only if the patient's discharge has been blocked by the Responsible Clinician. Unless the patient objects, the nearest relative NR must also be given the opportunity

to become involved in any planning of the patient's care and services after leaving hospital.

**Douglas MacInnes**

### **Readings**

Department of Health (1983). Mental Health Act 1983. [\[Online\] Available:](http://www.legislation.gov.uk/ukpga/1983/20/contents)  
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Department of Health (2008). Code of Practice Mental Health Act 1983. [\[Online\] Available:](http://www.lbhf.gov.uk/Images/Code%20of%20practice%201983%20rev%202008%20dh_087073%5B1%5D_tcm21-145032.pdf)  
[http://www.lbhf.gov.uk/Images/Code%20of%20practice%201983%20rev%202008%20dh\\_087073%5B1%5D\\_tcm21-145032.pdf](http://www.lbhf.gov.uk/Images/Code%20of%20practice%201983%20rev%202008%20dh_087073%5B1%5D_tcm21-145032.pdf)

MacInnes, D. (2000). The relatives and informal carers of mentally disordered offenders. In C. Chaloner & M. Coffey (Eds.) *Forensic Psychiatric Nursing: Current Concepts*. (pp. 208-231). Oxford, United Kingdom: Blackwell.

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