

# Your nearest relative

Information for patients being  
treated under the Mental Health Act



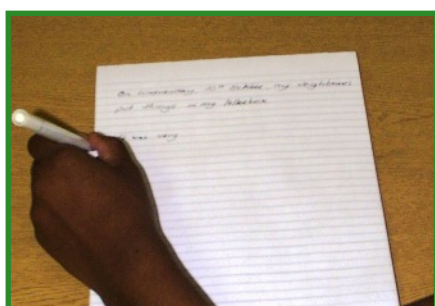
East London  
NHS Foundation Trust



EasyRead version



East London NHS Trust runs mental health and community health services.



We wrote this information to help you understand your rights.



This is an EasyRead version of **Your Nearest Relative Under the Mental Health Act 1983. (Sections 26 - 30)**



The Mental Health Act is the law that tells people with a **mental disorder** about their rights and how they can be treated.

**Mental disorder** means a disorder or disability of the mind such as:



- a mental illness



- a learning disability



- a personality disorder.

This leaflet is in 3 parts and tells you about:



1. The rules about who is your Nearest Relative



2. things the Mental Health Act says your Nearest Relative can do



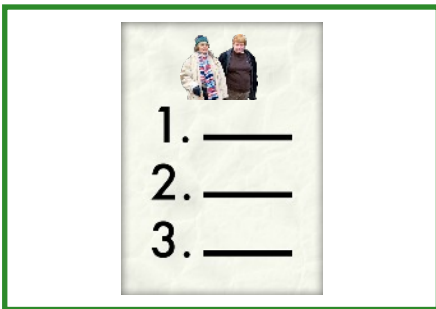
3. getting a new Nearest Relative.



# 1. Your Nearest Relative



Your Nearest Relative looks out for you if you are treated under the Mental Health Act in hospital or the community.



## Your nearest relative

The Mental Health Act has a list of people who could be your Nearest Relative. They include:



- your husband, wife or civil partner



- your close family



- adopted family



- anyone you have been living with for at least 5 years.



It does not include most people who are related to you by marriage.



## **Deciding who is your nearest relative**

Your Nearest Relative is usually someone from your family.



Families can be complicated and there are rules to decide your Nearest Relative should be.



It is usually the person closest to you and who cares for you.



This includes people who cared for you before you went into hospital.

## **If you are under 18 years old**

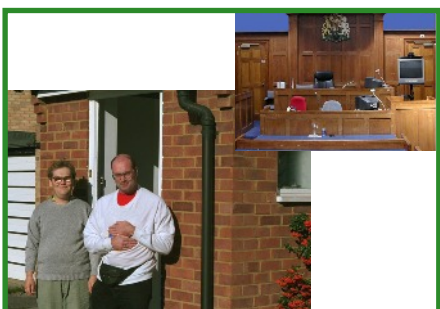
The rules are the same unless:

- a court has said your local council must care for you (unless you have a husband, wife or civil partner)





- you have a legal guardian



- a court has said who you must live with.

## Changing your Nearest Relative



Your Nearest Relative can change without anyone doing anything. For example, if you get married or someone dies.



Part 3 of this leaflet explains how the county court can change your Nearest Relative or choose one for you.





## 2. Things the Mental Health Act says your Nearest Relative can do



The Mental Health Act says what your Nearest Relative can do to help with your treatment and care.



These are their **rights**.



They have a right to:

- ask for you to be kept in hospital



- ask for you to be put on **guardianship**. Guardianship helps you live outside of hospital. Your guardian decides things like where you should live.



- know if you are going to be kept in hospital or put on guardianship



- ask for you to leave hospital or end your community treatment order



- know if you are going to leave hospital or end your community treatment order



- sometimes ask a Tribunal to say you can leave hospital. A tribunal is an independent group of people who make decisions about care under the Mental Health Act



- ask an independent Mental Health Act advocate to see you. You do not have to see them if you do not want to.



Your Nearest Relative can ask someone else to do most of the things they should do.



They must write to the person. They must also tell you, the hospital or anyone else involved in your care.



There are different rules about what they can ask other people to do if you have been sent to hospital from court or prison.



If your Nearest Relative changes their mind they have to write to everyone again.



### 3. Getting a new Nearest Relative.



### Asking the county court to choose a Nearest Relative

You can ask the county court to make someone your Nearest Relative if:



- you do not have one



- you cannot work out who it is



- you do not think your Nearest Relative can do the job properly



- your Nearest Relative is too ill to do it



- your Nearest Relative is not making the right decisions about you being kept in hospital or allowed to leave.



Other people can also ask the county court to change your Nearest Relative.



Whoever asks can tell the court who they think it should be.



That person can be your Nearest Relative if the court thinks they are right for the job and they agree to do it.



If not, the court will choose someone else.



You have to fill in a form and might have to pay for this.



A solicitor can help with the form and tell you if you can get their help for free.



## If a court makes someone your nearest relative

The court can change your Nearest Relative if:



- your Nearest Relative will not allow you to be kept in hospital or is not making good decisions about your care



- they think your Nearest Relative is not making good decisions about you being allowed to leave hospital.



Only the court can say how long that person will be your Nearest Relative while you are in hospital, treated in the community or under guardianship.



If you are not in hospital the new person is your Nearest Relative for just 3 months.



If you leave hospital, things go back to how they were before.





## Changing your Nearest Relative again

You can ask the court to change your Nearest Relative again.



These people can also ask the court to change them:

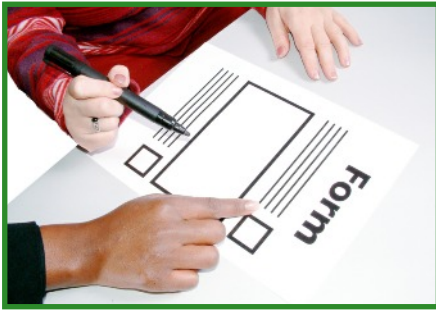
- the health or social care worker in charge of your care (the AMHP)



- the person the court chose as your Nearest Relative



- if that person has died, anyone else from the list of people can ask.



You have to fill in a form to ask the court to change things. You might have to pay for this.



A solicitor can help with the form and tell you if you can get their help for free.



## How to find out more

Please ask the person who gave you this leaflet or other member of staff if:



- you do not understand anything



- you want to ask any questions



- you want a copy of this leaflet for someone else.



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