

Patient Information Leaflet 13

Mental Health Act 1983

Section 37: Guardianship (by Court Order)

The name of your guardian is:

Their address and telephone number is:

Your Responsible Clinician or nominated medical attendant is:

What is guardianship?

Under section 37 of the Mental Health Act 1983 the Court can make an order that you be given a guardian to help you, if two doctors say this is needed because of your mental disorder.

The guardian is someone from your local Social Services Department or someone who has been approved by them. The guardian can say you must do certain things. You may have to:

- live in a particular place
- attend for medical treatment, occupational education or training at set places and at set times
- allow a doctor or an approved mental health professional

or other named person to see you.

Why do I need a guardian?

The Court thinks that you need help to live in the community as you have a mental disorder and you need a guardian for your own welfare or to protect other people.

How long does it last?

Your guardianship may last for up to six months at first.

What happens next?

At the end of the first six months, your guardianship order may be renewed for a further six months and then for a year at a time, if your responsible clinician feels this is necessary. Your responsible clinician or your social worker will tell you about this nearer the time.

Care Plans

You will have an individual care plan. As part of this plan you will have an assessment, and your care and treatment will draw upon your own strengths. If you wish you will be involved not only in the planning, but also the delivery of your own care plan.

To develop your care plan you will have a co-ordinator who will involve other people who have a relevant interest in your care, including your responsible clinician, your social worker, a carer if you have one and with your agreement, your nearest relative.

Once developed, your care plan will include agreed timescales for implementing the various aspects of your care plan, including your medical treatment, physical healthcare, and preparing for and covering the time after your discharge.

Your care plan will be recorded in writing, and you may sign it if you wish. You will also be given a copy.

For more information on what your care plan will include, please ask for a copy of the 'Peace of Mind' booklet on the Code of Practice for Wales.

Independent Mental Health Advocacy Service

You will have access to the confidential, independent mental health advocacy (IMHA) service. The IMHA service will provide support to you and help you to understand the Act.

They will help you obtain information about your legal rights, any medical treatment that you may be receiving and how you can appeal against detention.

If you are having any difficulties understanding this leaflet or have any further questions the IMHA service is there to help you.

Can I appeal?

You can appeal to the Court against the guardianship order. If you want to appeal you must apply within 21 days (three weeks) of the Court making the order and it is best to ask a solicitor to help you. For further advice please speak to your guardian or your social worker. When you want guardianship to stop, you should talk to your guardian or your responsible clinician or your social worker. If you are still unhappy, you can write to your local Social Services Department and ask them to look into your case.

You can also ask the Mental Health Review Tribunal for Wales to discharge you from the guardianship order. You can apply to the Tribunal any time in the next six months. If your responsible clinician thinks you need to stay under guardianship for a further year you will be able to apply to the Tribunal again. After that, you can apply once every year that you are still under guardianship.

What happens at a hearing before the Mental Health Review Tribunal for Wales?

The Tribunal is independent of the local authority and your guardian. The Tribunal members will come and meet with you and listen to your views and to those of your representative (if you have one). The Tribunal doctor will come and see you before the Tribunal hearing. They will speak to your responsible clinician and other professionals involved in your care, and your guardian, and read reports about you before deciding if you are well enough to be discharged from guardianship. The Tribunal will give you a written decision within 7 days of the date of the hearing.

You might want to ask for a solicitor to help you with the Tribunal. The local authority has a copy of the Law Society list of specialised solicitors, or you might want to use your own solicitor. This is free of charge under the legal aid scheme.

The address of the Tribunal office is:

Mental Health Review Tribunal for Wales
Crown Buildings
Cathays Park
Cardiff CF10 3NQ

Will I be given treatment?

You cannot be given any treatment without your consent while under guardianship.

Letting your nearest relative know

A copy of this leaflet will be given to your nearest relative who we understand to be:

If you do not want the person mentioned above to receive a copy of this leaflet please tell the person in charge of the ward, or your responsible clinician, or the Hospital Managers.

Your nearest relative will have certain set rights under the Mental Health Act 1983. They include:

- The right to ask for you to be admitted to hospital for assessment or treatment;
- The right to receive information about your detention under the Act.

For more information about the role of the nearest relative and what rights they have please ask for a copy of the nearest relative leaflet.

Changing your nearest relative

If you do not think this person is suitable to be your nearest relative, you can apply to the County Court for someone else to be treated as your nearest relative instead. The hospital staff can give you a leaflet that explains this.

Code of Practice for Wales

The Code of Practice for Wales gives advice to staff about the Mental Health Act 1983. They have to think about what the Code says when they take decisions about your care. You can ask to look at a copy of the Code or you can ask for a copy of the 'Peace of Mind' booklet on the Code of Practice for Wales.

Further information and help

If there is anything you do not understand about your care and treatment, a member of staff will try to help you. Please ask a member of staff to explain if there is anything in this leaflet you do not understand or if you have other questions that this has not answered.

The independent mental health advocacy service is also there to provide help and support to you.

Please ask if you would like another copy of this leaflet for someone else.