

August 2024

Nearest Relative requests for a Mental Health Act Assessment – Section 13(4) Mental Health Act

Requesting a Mental Health Act Assessment

Do not contact the AMHP Service for a Mental Health Act assessment if there's an immediate risk of significant harm. Call [999](tel:999) and request for the police or an ambulance.

What is a Mental Health Act Assessment

A Mental Health Act Assessment is an assessment to determine whether a person should be detained (sectioned) in hospital under the Mental Health Act to ensure that they receive assessment and/or treatment for a mental disorder. There is no age restriction.

A Mental Health Act assessment may be appropriate under some circumstances.

For an assessment to be required:

- There must be some element of significant risk. Acting differently is not necessarily risky - there must be specific and identifiable risks of harm to the individual and or to others.
- other options will have been tried first, like an appointment with a GP, management of risk through the Crisis Team.
- there will be evidence of mental disorder, diagnosed or undiagnosed; unusual beliefs or unwise decisions are not necessarily evidence of a mental disorder.

What is the Nearest Relative?

The Nearest Relative (NR) is a term that is defined under the Mental Health Act. The Nearest Relative is not the same as the person's next of kin, although it may be the same person. The next of kin is usually a relative or close friend chosen by someone soon after they are admitted to any sort of hospital. The next of kin has no legal powers under the Mental Health Act whereas the Nearest Relative has a number of rights.

Who is the Nearest Relative?

Section 26 of the Mental Health Act explains who can be the Nearest Relative (NR). A patient cannot choose their Nearest Relative. The term Nearest Relative is defined by the Mental Health Act as a list by order of who will be the nearest relative based on age and relation to the person:

- Husband, wife or civil partner
- Son or daughter
- Father or mother
- Brother or sister
- Grandparent
- Grandchild
- Uncle or aunt
- Niece or nephew

Men and women are treated equally. If there are two people who could be the Nearest Relative, for example, mother and father, the eldest person would be the Nearest Relative. The Nearest Relative must be over the age of 18 years.

Nearest Relative right to ask for assessment (Section 13(4) Mental Health Act):

The Nearest Relative can request the AMHP Service to carry out a mental health assessment in writing or by phone. The Local Authority AMHP Service must respond to this request but this does not mean that they will conduct a formal assessment. The Approved Mental Health Professional (AMHP) only has to “consider the patient’s case”. If having considered the request and they do not think that an assessment is necessary, there is no requirement for them to assess.

The AMHP must inform the Nearest Relative in writing the reasons for not undertaking an assessment or the reasons for not making an application for detention. The AMHP must also advise the Nearest Relative of their right to make an application for an admission to hospital and provide information on how to do it.

The Nearest Relative can also ask someone else to make the request on their behalf, such as another relative or GP. Requests “on behalf of” the nearest relative will be responded to in the same way.

Right to apply for admission:

The Nearest Relative can ask hospital managers to detain a person under Section 2, Section 3, or in an emergency. The Nearest Relative may only be able to apply directly to the hospital if doctors agree that the person should be detained but the

AMHP disagrees. Therefore, it may be easier to ask the AMHP Service to consider an assessment first, before you apply to the hospital managers.

If you are not the Nearest Relative:

If you are not the Nearest Relative (or not making a referral on behalf of the Nearest Relative), but are concerned about someone and feel that a mental health act may be necessary please contact their GP or NHS 111's mental health option for urgent mental health support. To access the service call 111 and selection option two.

Please note that if you would prefer to text this service, you can contact 07860 025 281.

The individual can also be taken to Sandwell A&E Department, with their consent and if safe to do so, for assessment by the Psychiatric Liaison Service.

Where can I make a referral for a Mental Health Act Assessment?

Contact Sandwell Council Enquiry Tel: 0121 569 2266 (09:00 – 17:30)

Address: PO Box 15825, Oldbury B69 9EL

Email: sandwell_enquiry@sandwell.gov.uk

Out of Hours: Tel: 0121 569 6817

Other formats

If you need this information in other formats or in other languages email:

asc_admin@sandwell.gov.uk.

Useful links:

For more information about Nearest Relative visit: www.rethink.org

For further information about What is a Nearest Relative visit: www.mind.org.uk

For information about the rights of a Nearest Relative visit: www.recoverycollegeonline.co.uk

Factsheet published by Sandwell Council www.sandwell.gov.uk