

Can a patient say that they do not want their family consulted?

Yes. Patients being treated under the Mental Health Act have the right to say that they do not want their family consulted. But the responsible clinician can still talk to the family if they believe this would be in the patient's best interests. If the responsible clinician decides that it is not in the patient's best interests to consult their family, the family still has the right to:

- Talk to the responsible clinician.
- Be given information about the patient's condition if they are going to be providing ongoing care.
- Be told if the clinician thinks the patient could harm them.

What can families do if they are unhappy with the treatment their family member is receiving?

The Mental Health Act gives patients a number of rights - for example, the right to be treated with respect, the right for cultural identity to be respected and the right to appropriate treatment. If families believe that any of these rights have been breached, they or the patient can make a complaint to a District Inspector.

Ask the responsible clinician or duly authorised officer for the name and phone number of a District Inspector for your region.

How do a patient's rights under the Privacy Act fit with their family's right to be consulted?

The Privacy Act and the Health Information Privacy Code protect people's health information. As a general rule, health agencies cannot release a person's health information without their consent. The Mental Health Act provides an exception to this rule. If, as part of the requirement to consult with families, the responsible clinician discloses a person's health information to their family, this will not be a breach of the Privacy Act (Sections 7 and 53). Health agencies cannot use the Privacy Act as a reason for not consulting with family and whanau.

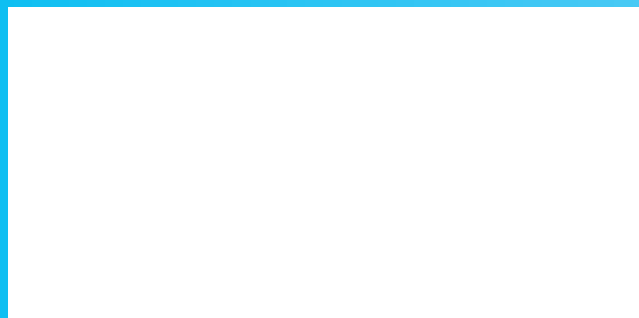
Supporting Families in Mental
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The Mental Health Act



Sometimes people who experience mental illness can become so unwell that they are treated compulsorily—against their will. This can be a frightening experience for the person being treated, but it is also a stressful time for family and whanau.

This pamphlet is for the family and whanau of people who are receiving compulsory treatment under the Mental Health Act. It explains how the Act works and what rights family and whanau have when a family member is receiving compulsory treatment.

What can families do when they are worried about a family member's mental health?

If family or whanau are concerned about a family member's mental health, they can apply to have the person compulsorily assessed under the Mental Health Act. A GP, a mental health worker or a duly authorized officer can help the family with this (or mental health workers can make the application themselves). If the situation is urgent, look in the telephone directory for Community Mental Health, in the 'Hospitals and other health service providers' section.

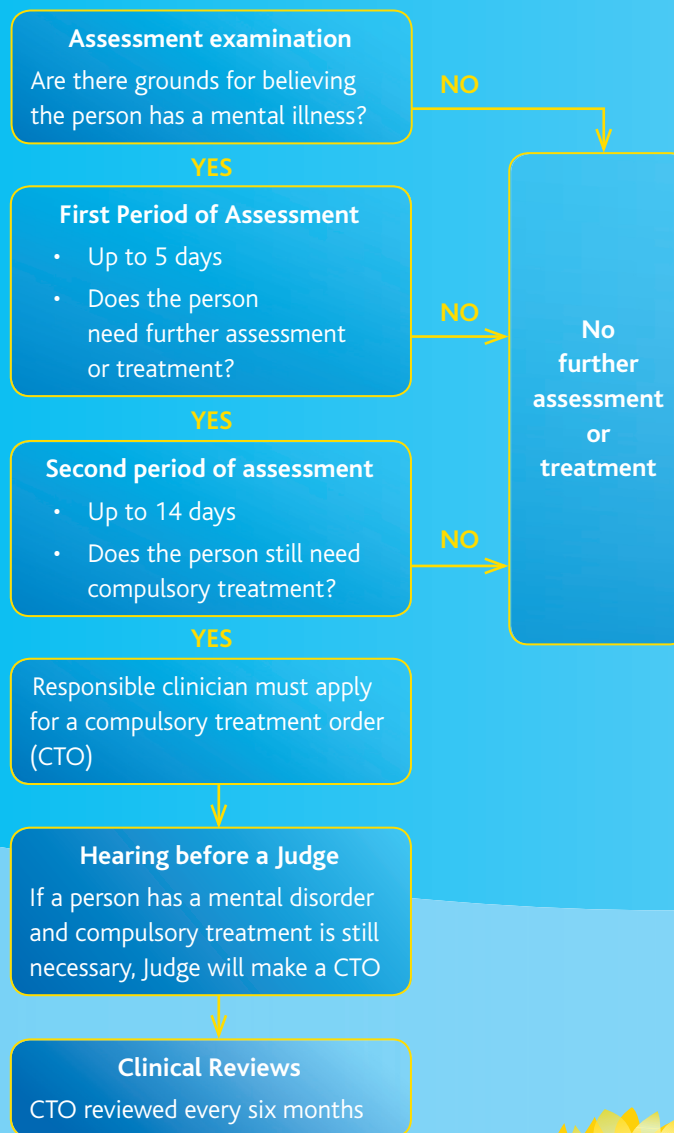
What is compulsory assessment and treatment?

Compulsory treatment is when a person is assessed and treated for their mental illness against their will and without their consent.

Most people receiving treatment for their illness are voluntary patients. This means that they choose the kind of treatment they want to receive, have some say about which health professionals they use, and can stop their treatment at any time. However sometimes a person can become so unwell that they are unable to take care of themselves, or they are posing a serious danger to themselves or others. When this happens an application can be made to have the person assessed under the Mental Health Act.

How does the Mental Health Act work?

The Mental Health Act - the Act's full name is the Mental Health (Compulsory Assessment and Treatment) Act 1992 - sets out the steps that must be followed whenever a person is being compulsorily assessed or treated. At each step there are checks to make sure that the person is not detained any longer than necessary.



Do health professionals have to consult with family and whanau?

Yes. The Mental Health Act says that the responsible clinician must consult with the patient's family and whanau during the compulsory assessment and treatment process unless:

- This is not 'reasonably practical' eg if the family cannot be contacted. However clinicians should make a reasonable effort to make contact.
- This is not in the patient's best interests. See '**Can a patient say that they do not want their family consulted?**' on the next page.

What is consultation?

Consultation is a two way process. Families and whanau don't just have a right to receive some information about their family member. They also have a right to talk to clinicians about their concerns about the patient or their treatment.

In all dealings with health professionals, family and whanau have a right to be treated with understanding and respect, and any information they give should remain confidential.

Note that consultation is not the same as agreement. The responsible clinician will still have the final say in clinical decision making.

What information can families and whanau be given?

Family and whanau will usually be consulted whenever significant decisions are made about treatment and at each step of the compulsory assessment and treatment process. In practice, this could mean for example, that family and whanau will:

- Receive information about the nature of the person's illness and likely treatment.
- Be consulted about the person's discharge plan.
- Be given information about mental health services and supports available in the community.

