

Specified Persons Guide

Know your
rights and have
your say about
your mental
health care
and treatment.

What is a 'specified person'?

If you are detained in hospital under the Mental Health Act, there may be times when you are unwell that restrictions are placed upon you. When this happens you are referred to as a 'specified person'.

This must only happen if your doctor thinks your health, safety or welfare might be at risk, or there is a risk to others. There are regulations in law that the doctor must follow.

You should only have restrictions placed upon you if it is absolutely necessary. These restrictions should be as unobtrusive as possible.

What this guidance is about:

Should you be named by your doctor as a specified person, we aim to help you understand:

- Your rights.
- How you can expect to be treated.
- Subsequent actions you may wish to take.

When can you be named as a 'specified person'?

1. If you are detained under the Mental Health Act and in a high or medium secure hospital setting, you are automatically deemed to be a specified person while you remain there, and restrictions might be placed upon you.
2. If you are detained in a hospital that is not high or medium security, you would only be named as a specified person if your doctor thinks you should be. But he or she must discuss this with you first. Your doctor must also write down the reasons for any restrictions they plan to place on you. They must give you, your named person if you have one (see more information at the end of this leaflet), and the Mental Welfare Commission a copy.

Only then can you be legally designated a specified person and have restrictions placed upon you. The reasons given by your doctor must say why, without restrictions being in place, there would be a risk to you or to others.

If you are named as a specified person, your doctor might:

- Restrict use of your telephone and similar technology.
- Restrict correspondence (letters and parcels).
- Place restrictions on your visitors.
- Place other restrictions to ensure your safety and security, and that of the hospital.

More information on restrictions on the use of telephones and technology

Having access to a telephone to maintain contact with your friends and family is an important right when in hospital. Your doctor should only restrict your use of a telephone if this access presents a risk to the health, safety or welfare of you or others. And your doctor must write down the reasons why any restriction is being introduced.

These regulations also apply to mobile phones, and your doctor could restrict your use of your mobile. But that doesn't mean hospital staff have the authority to remove your mobile phone, as it remains your property.

If it is thought necessary to remove a mobile phone for safekeeping in a secure place, this must be done because of safety and security concerns, and different rules apply.

For example, mobile phones with cameras may be removed on the basis of it being a threat to the personal privacy of other patients on the ward.

Correspondence

If you are a specified person, there are some circumstances where correspondence – such as letters or parcels - may be restricted:

- Where another person has asked hospital managers to withhold mail addressed to them from you.
- If the letters or parcels you send may cause distress or endanger the addressee or any other person who is not a member of hospital staff.
- If receipt of letters or parcels addressed to you are not in your health and safety interests, or may cause danger to any other person.

Where your mail is withheld, hospital managers are required to notify the Mental Welfare Commission, within seven days, giving the reasons for withholding the item and the nature of the contents. They must also notify you and make you aware that you have the right to apply to the Mental Welfare Commission to have the decision to withhold the item overturned.

Hospital managers are required to retain a withheld item of mail and to produce it, if requested by the Mental Welfare Commission, within 14 days of a request for a review.

Correspondence restrictions can last up to six months. After this time, the doctor must review the decision.

Safety and security

In some circumstances – such as if there is a concern about the misuse of drugs - your doctor might require you to be searched, to take samples, to restrict items or to restrict who might visit you.

This must only be done as a last resort, and the doctor must write down what the restrictions are, and why they are necessary. The restrictions can last up to six months.

After that, the doctor must consider if they are still necessary. You, your named person and the Mental Welfare Commission, must get a copy of the restrictions.

What can I do if I want restrictions taken away?

If you do not agree with any restrictions placed upon you, it is your right to ask your doctor to review them.

You can request for your doctor to:

- If your calls to or from an identified person are stopped for a continuous period of seven days, you can ask for a review once every week.
- Review any restrictions or prohibitions once every three months.
- Review your specified person status once every six months.

If you have asked your doctor for the above reviews and you are not happy with the response you are given, you can write to the Mental Welfare Commission and ask for the Commission to review how any restrictions placed upon you are applied.

You also have the right to have an advocacy worker to help you discuss any restrictions with your doctor. Your hospital staff can give you the details of your local advocacy service.

What is a named person?

A named person is someone you choose who can help protect your interests, and make important decisions about you if you are not able to decide yourself.

It should be someone who knows you well, and who you can trust. Your named person can, for example, ask for any restrictions to be reviewed on your behalf.

Your hospital staff can give you more information about this.

As a person with a mental illness or learning disability, during your care, treatment and support you have the same rights as others to:

- Be treated with dignity and respect for your privacy, beliefs and individual needs.
- Not be discriminated against.
- Be given opportunities to use and develop your skills.
- Receive information about and be involved as much as possible in any assessment, planning and decision making about your care and treatment.
- Access the support of an independent advocate.
- Have your choices respected and taken fully into account.
- Involve relatives, friends or carers who are important to you in your care, who will be provided with the information they need.
- Receive care, treatment and support that benefits you and is the least restrictive option.
- Access information and help to challenge any restrictions placed upon you.
- Be kept safe and protected.

More information, as well as further downloadable guides, are available on our website: www.mwcscot.org.uk

More detailed information on this topic can be found in our Good Practice Guide on Specified Persons.

You can contact our advice line for service users and carers on: **0800 389 6809** or **0131 313 8777**.