

The role of the
Designated
Medical
Practitioner

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This booklet is for people who are having treatment under Part 16 of the Mental Health (Care and Treatment) (Scotland) Act 2003.

It explains the following:

- When you can be given treatment against your will
- What safeguards there are to make sure your rights are protected
- What Designated Medical Practitioners (DMPs) are
- What they do
- What happens if your doctor and the DMP disagree
- What to do if you don't like the DMP's decision
- What happens if the DMP agrees to a treatment you have refused in an advance statement

The Mental Welfare Commission:

Who we are

How to contact us

If you could like this leaflet in an easy read format, please call us on

0800 389 6809

The Mental Health (Care and Treatment) (Scotland) Act 2003

What is the Mental Health Act?

The Scottish Parliament passed the Mental Health (Care and Treatment) (Scotland) Act 2003. This is sometimes referred to as the MHA or the Act.

The Act came into effect in October 2005. It sets out how you can be treated if you have a mental illness, a learning disability or other related conditions.

This leaflet describes the law and explains what it says about:

- when you can be given treatment against your will; and
- what safeguards there are to make sure your rights are protected.

Under the Act the psychiatrist in charge of your treatment is known as the Responsible Medical Officer (RMO).

Can you be treated without your consent?

Yes, but this is subject to regulations and safeguards.

The law states that you can be given medication as treatment for mental disorder without your consent in the first two months of your treatment if it is in your best interests.

After two months of medication, if you are able to consent and are willing to do so, your RMO will ask for your written consent and complete a T2 form.

If you are not able to consent, or do not agree with the treatment, the RMO must arrange for certain safeguards to be put in place including a second opinion from a doctor who will complete a T3 form (if they agree).

The law also states that some other treatments require that the safeguards must be in place from the start of the treatment. A T2 or T3 form has to be completed before a treatment can start. This includes the following:

- medication if the purpose is to reduce sex drive
- artificial nutrition
- electroconvulsive therapy (ECT)
- some other treatments that act directly on the brain

What are the safeguards?

If your doctor wants to give you treatment without your consent he or she must get an independent opinion from a Designated Medical Practitioner (DMP for short – we explain below what a DMP does).

To do this your doctor will contact the Mental Welfare Commission (MWC). We will contact an independent DMP who will come to see you and make a decision about whether to go ahead with the treatment.

If you would like more information about consent to treatment please read the Scottish Government publication: *The New Mental Health Act: A Guide to Consent to Treatment: Information for Service Users and their Carers*.

Who are Designated Medical Practitioners?

DMPs are experienced psychiatrists. When you need the safeguard of a DMP your doctor will contact us and the MWC will ask a DMP to see you.

The DMP who comes to see you will work for a different clinical team and hospital from the people who provide your treatment.

The Commission gives DMPs special training to make sure that they fully understand their duties under the Mental Health Act. If your treatment is particularly specialised we will try ensure the DMP has specialist knowledge of this treatment.

A DMP's duties are set out in the Act and usually they do not work for the Commission. Sometimes we send one of our doctors to resolve a dispute or for highly specialised treatments when no-one else is available.

You have a right to access independent advocacy services. The advocacy worker can help you to express your views. If you need us to, the Mental Welfare Commission will help you get information about people and organisations that can do this for you.



About DMPs

What does the DMP do?

Your own doctor will put forward a plan for treating you. The DMP's role is to decide whether the treatment the doctor has put in this plan is in line with the law and is in your best interests.

The DMP can only give an opinion on the specific medical treatment. The DMP cannot give a second opinion on your diagnosis or general treatment.

If you want this type of second opinion, you must tell your own doctor who can arrange this.

Alternatively, your solicitor may also arrange an independent medical opinion in relation to your compulsory treatment in general. Even if you have your own second opinion the DMP assessment must still take place.

Before making a decision, the DMP will:

- talk to you and listen to your views about your treatment;
- assess your mental state;
- look at your case notes;
- pay particular attention to an advance statement if you've made one (an advance statement is a signed written statement about how you would and would not like to be treated); and
- consult others about your care (including your named person and those involved in your treatment), if it is practical to do so.

If the DMP agrees with the treatment plan he/she will complete a T3 form and send it to the psychiatrist in charge of your care, known as the RMO (Responsible Medical Officer).

More about the DMP role

The Mental Health Act says that the DMP must also take into account:

- your past and present wishes about your care and treatment;
- the views of your named person and any carer, guardian or welfare attorney you have;
- the range of options available for your care and treatment;
- whether the care and treatment will be of maximum benefit for you;
- your individual abilities and background; and
- other important things about you, such as your age, gender, sexual orientation, religion, racial origin or membership of any ethnic group.

The DMP should also make sure that:

- you are given the information and help you need to participate in decisions about your care and treatment;
- you are not treated any less favourably than anyone else because you are being treated under the Act; and
- if you are under the age of 18 your welfare is given the highest priority.

What if you don't like the DMP's decision?

If you think that your views have not been listened to, you may need someone to help you express your views.

There are independent advocacy services that may be able to help you with this. The staff involved in your care or the MWC can give you information about how to access this.

It is important that you continue to discuss your treatment with your own psychiatrist, as you may be able to come to an agreement. You cannot appeal against a DMP's decision as such. You continue to have the right to appeal to the Tribunal for the revocation of the MHA order which is authorising the treatment.

If you, or anyone else, have serious concerns about what a DMP has done, it is important that you let the MWC know about this. We can also give you general advice on your rights under the Mental Health Act.

What happens if your doctor and the DMP disagree?

The DMP is completely independent of the doctor who is treating you. The DMP will only agree to the treatment plan if he or she believes it is legal and in your best interests.

If the DMP has ideas about how your treatment plan could be improved, or they disagree with your own psychiatrist about the treatment plan, they will have a further discussion and this might lead to the treatment plan being changed.

If they cannot agree, another DMP or a doctor who works for the MWC will come to visit you and try to resolve the problem.

When a treatment plan has been approved a T3 form is issued. This is the authority for you to be given the treatment.

What if the DMP agrees to a treatment that you have refused in an advance statement?

We pay special attention to cases where the DMP agrees to treatment that is not in line with your advance statement.

Advance statements are an important part of the Act. Nobody should give you treatment that conflicts with your advance statement without thinking very carefully about your best interests.

If you've made an advance statement it's important that a copy of this is kept with your medical records so that the DMP can read it and take your views into account.

If the DMP agrees to treatment that is not in line with your advance statement, he or she will provide you with information, in writing, explaining his or her decision.

The DMP must also send this information to the MWC and to your named person. We also advise the DMP to send a copy of the decision to your psychiatrist (RMO).

If we are not satisfied with the explanation, or are not sure a treatment is in your best interests, we will look into your case.

If you would like more information about advance statements please read the Scottish Government publication: *The New Mental Health Act: A Guide to Advance Statements*.



More about the MWC

Our aim

We aim to ensure that care, treatment and support are lawful and respect the rights and promote the welfare of individuals with mental illness, learning disability and related conditions. We do this by empowering individuals and their carers and guiding and challenging service providers and policymakers.

Why we do this

Individuals may be vulnerable because they are less able to safeguard their own interests. They can have restrictions placed on them in order to receive care and treatment. When this happens, we make sure it is legal and ethical.

Who we are

We are an independent organisation set up by Parliament with a range of duties under mental health and incapacity law. We draw on our experience as health and social care staff, service users and carers.

Our values

Individuals with mental illness, learning disability and related conditions have the same respect for their equality and human rights as all other citizens. They have the right to:

- be treated with dignity and respect;
- ethical and lawful treatment and to live free from abuse, neglect or discrimination;
- care and treatment that best suit their needs; and
- recover and lead as fulfilling a life as possible.

What we do

Much of our work is at the complex interface between the individual's rights, the law and ethics and the care the person is receiving. We work across the continuum of health and social care.

- We find out whether individual care and treatment is in line with the law and good practice
- We challenge service providers to deliver best practice in mental health and learning disability care
- We follow up on individual cases where we have concerns and may investigate further
- We provide information, advice and guidance to individuals, carers and service providers
- We have a strong and influential voice in service policy and development
- We promote best practice in applying mental health and incapacity law to individuals' care and treatment

How to contact the commission

If you have any questions about this topic, or would like information in another language or format, please get in touch with us.

Our contact details are:

Mental Welfare Commission for Scotland
Thistle House
91 Haymarket Terrace
Edinburgh
EH12 5HE

Service user and carer freephone:
0800 389 6809

Office: 0131 313 8777

www.mwscot.org.uk

Your views

We want to know what you think about our service. If we've done something wrong we'd like to have the chance to try to put it right.

Of course we'd also like to hear when we've managed to help. So if you have a complaint, a comment or a compliment, please ring us on 0800 389 6809.

We will listen to what you have to say and use it to help us improve our service in future.



If you would like to receive e-mail updates or information by post please join our mailing list.

Name _____

Address _____

E-mail _____

I am mostly interested in information for:

Learning disability service users or carers

Mental health service users or carers

Mental health professionals

job title _____

Learning disability professionals

job title _____

Other

please specify _____

I would like my information in another format

(for example, easy-read, tape, another language)

please specify _____

I agree to join the Mental Welfare Commission mailing list.

Please sign _____

We will store the information you provide on this form on a database. We will not share your details with anyone else. By filling in and returning this form, we understand that you agree to this. We will only send you direct mail if you have consented to join our mailing list.

MWC: Who we are and what we do

Visiting people

Monitoring your care and treatment

Welfare Guardianship

Details of the full range of MWC publications are available from our website

www.mwcscot.org.uk

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