The presence of specific safeguards within the Mental Health Act 1983 provides an important counterbalance to the extensive powers that are inherent in the Act. Just as professionals need to be aware of the powers they may exercise, they also need to be aware of their responsibilities to ensure that patients and others are aware of their rights.

**The Code of Practice**

- Section 118 states that the Secretary of State for Health should produce a Code of Practice to guide professionals in the use of the Act. It is designed to ensure a universally high standard of care and prevent abuse of the powers.
- The Code introduces **Guiding Principles** for consideration when using the Act. These are:
  - Least restrictive option and maximising independence
  - Empowerment and involvement
  - Respect and dignity
  - Purpose and effectiveness
  - Efficiency and equity.

**The Nearest Relative**

- The Nearest Relative has the power to make an application for detention or guardianship, object to an application by an AMHP for admission to hospital for treatment or for guardianship or request discharge of the patient from detention or community treatment order (CTO).
- They also have the right to information about the Section under which their relative is detained and their rights related to this.

**The Independent Mental Health Advocate (IMHA)**

- The IMHA should help the patient gain information about and understand:
  - their rights
  - the rights of their Nearest Relative
  - the effects of the particular sections of the Act to which they are subject
  - the treatment they are being given and the authority under which it is given
  - the safeguards they may access.
- They should also help the patient to exercise their rights and engage in discussions and decisions about their care.

**The Tribunal**

- The Tribunal is an independent judicial body operating under the provisions of the Mental Health Act 1983, which reviews the need for detention.
- Applications are heard initially by the ‘first tier’ Tribunal services.
- An upper chamber, the Administrative Appeals Chamber, deals with appeals from the first tier.
Duties and powers of the Responsible Authority

- The Responsible Authority is the detaining authority which provides necessary information to individuals and reviews detention. It is identified as follows:
  - for patients detained in hospital – the hospital managers
  - for CTO patients – the managers of the Responsible hospital
  - for Guardianship patients – the Responsible Local Social Services Authority (LSSA).

Conflicts of interest when undertaking an assessment

- Section 12A of the MHA 1983 identifies circumstances where there would be a conflict of interest which could call into question the objectivity of a Mental Health Act assessment.

- In these circumstances:
  - a doctor should not make a recommendation
  - an AMHP should not make an application.

The Second Opinion Appointed Doctor (SOAD)

- The SOAD is appointed by the Care Quality Commission to give an independent second opinion on the appropriateness of medical treatment given under Parts 4 and 4A of the MHA 1983.

- In certain circumstances the SOAD certificate is required to authorise treatment.

Further reading


Useful websites

[Gov.uk](https://www.gov.uk) - information on mental health tribunals