

Approved Mental Health Professionals' views on the role of relatives in compulsory mental health admissions: Challenges and opportunities

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About the research

This new study has identified difficulties with the Nearest Relative role under the Mental Health Act 1983 (the Act). The research was conducted by an inter-disciplinary team of researchers from the Universities of Bristol, Bath and the University of the West of England. The study adopted a two-stage design, drawing on online surveys and focus groups with Approved Mental Health Professionals (AMHPs) to examine how they interpreted their legal duties towards Nearest Relatives (NR) under the Act. Detention under the Act allows people with mental health problems to be given compulsory treatment in hospital. The research focused on how AMHPs, who are responsible for coordinating compulsory Mental Health Act (MHA) assessments prior to detention, engaged with NRs during the process.

Nearest Relatives have three key areas of responsibility under the Act:

- the right to object to longer term compulsory admission of their relative under the Act;
- the right to request that mental health professionals conduct an assessment of their relative, to see whether they should be detained in hospital;
- the right to apply to have their relative detained in hospital (although this power is seldom used in practice).

The identity of the NR is currently determined by an AMHP using a hierarchical list of relatives given in the Act. Concern has been expressed that people being assessed under the Act are not currently able to choose at the outset who their NR should be. For example, a recent Independent Review of the Mental Health Act (December 2018) found that the role was problematic because it offered those being detained no choice about who should be consulted about their care. Following this Review, the Government pledged to replace the NR with a new Nominated Person role, which would give people with mental health problems greater choice about who should represent them.

Policy implications

- A new Nominated Person (NP) role is needed in legislation to provide greater choice for patients about who should be consulted about their care.
- The powers which NRs currently have should be retained by the NP (in contrast to the Scottish system where NPs are given fewer powers).
- AMHPs should ensure that patient consent is explicitly sought, in line with legal expectations and human rights principles, rather than being assumed or implied.
- AMHPs should ensure that they do not discount the advocacy role of relatives (acting as a NR/NP) in cases where the relatives are lobbying for a MHA assessment. While AMHPs are required to assert a social care perspective by relevant MHA Approved Mental Health Professional Regulations, they are also required to consider carer perspectives on the nature of mental disorder and treatment.
- AMHPs should ensure that they do not make any distinctions in consulting the NR/NP between assessments conducted following detention of the patient under section 136 (which gives police the power to take someone appearing to be mentally disordered to a place of safety) and other routes for civil detention (under sections 2 or 3) of the Act.



Key findings

- AMHPs saw the NR role as offering an important 'safeguard' on the basis that NRs could provide information about the person being assessed and could advocate on their behalf.
- A high proportion of AMHPs had spoken to NRs for background information when assessing people with mental health problems under the Act. However, they were less likely to ask the person being assessed about their views of involving the NR prior to assessment.
- AMHPs found it challenging to interpret existing law. They reported facing problems knowing when to consult with NRs and in managing confidentiality issues.
- AMHPs in some focus groups identified that they would delay consulting with NRs in cases where a patient was detained under section 136 of the Act in order to avoid embarrassing them.
- AMHPs identified practical difficulties in balancing their legal obligations towards NRs and patients; particularly where issues of abuse were raised or where patients had identified that they did not want their relative involved.
- AMHPs stated that they sought to prioritise the wishes of the person being assessed regarding confidentiality. However, practice examples given within the research identified that the wishes of the person being assessed were sometimes implied rather than explicitly sought.
- The findings reinforce the conclusions of the recent Independent Mental Health Act Review that NR provisions as they stand are 'outdated, variable and insufficient'.

Key terms

Approved Mental Health Professional (AMHP) – a mental health professional (usually a social worker) who has responsibility to assess and coordinate the compulsory assessment and admission process under the Mental Health Act.

A Social Perspective – AMHPs are trained to consider the patient's social circumstances and needs, and to take account of factors such as gender, culture, ethnicity, age, sexuality and disability in their assessments.

Nearest Relative (NR) – a family member who is given certain rights and powers under the Mental Health Act during a relative's compulsory assessment and detention process.

One of the AMHPs in the study likened the balancing nature of their role to treading a tightrope:

"Sometimes you literally have to say look, I'm really sorry, I can't share some of the things [information about the patient] with you because we've been asked not to, but I'm here and whatever you tell me I'll listen. So you're not actually giving information out, you're on that tightrope sometimes" (AMHP 3, Focus Group 3)."

Further information

Full details of the study and discussion of the key findings can be found in Health & Social Care in the Community available here: <https://research-information.bris.ac.uk/en/publications/treading-a-tightrope-professional-perspectives-on-balancing-the-r>

Contact the researchers

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