

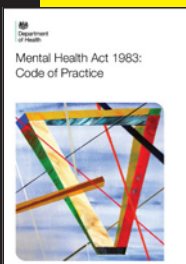


Department
of Health

An easy read fact sheet

Guardianship

This fact sheet is
about Guardianship
and your rights.



Know your rights

The Mental Health Act
Code of Practice

Guardianship

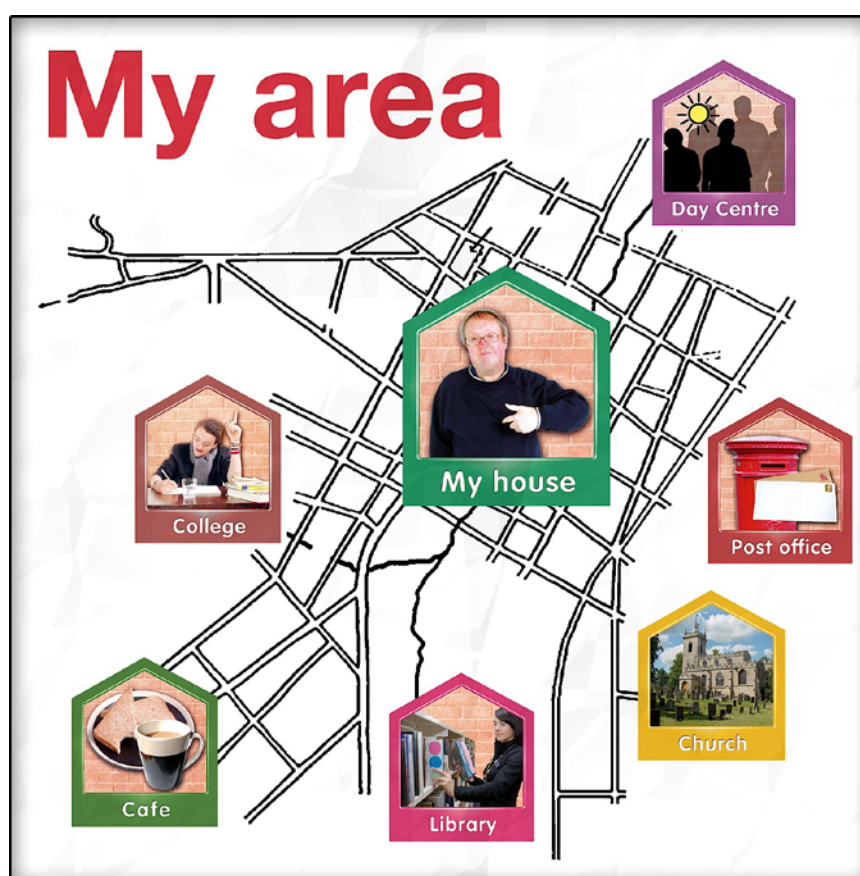
Key facts

- * Guardianship is used to help you live outside of hospital.
- * Your Guardian can decide things for you, like where you live.
- * You can ask your **Independent Mental Health Advocate** to help you understand about your Guardianship.



What is Guardianship?

- Guardianship is used to help and encourage you to get the care you need outside of hospital.
- A Guardian could be your Local Authority, or someone else that the Local Authority has agreed to be your Guardian
- Under Guardianship you should still be free to come and go from the place that you live.



When are you given Guardianship?

- You can be placed under Guardianship if you are 16 or over, have a mental disorder and it is necessary to protect you or other.
- You might be placed under Guardianship even though you do have mental capacity to make certain decisions because it is felt you are vulnerable because of your mental disorder.
- The choice of Guardianship would be made instead of you being detained in hospital for treatment.



What rights does a Guardian have?

Your Guardian:

- Has the right to decide where you should live.
- Should talk to you about where they want you to live
- Can require that a doctor, Approved Mental Health Professional (AMHP) or other such person is able to see you at the place where you live
- Can require you to go for treatment, work, training or education at agreed times and places
- Your Guardian or anyone else **does not have the right** to make you have treatment without your agreement
- Your Guardian or anyone else **does not have the right** to agree to treatment on your behalf if you have capacity to consent to the treatment.



How am I placed under Guardianship?

- You can only be placed under Guardianship if two doctors say that the requirements in the Act are met.
- An application is usually made by an **Approved Mental Health Practitioner** (AMHP) but in some cases it can be made by your Nearest Relative.

How long does Guardianship last?

- Six months, after this time your Guardianship can be renewed.



Can my Guardianship be ended?

- You can apply to the **Tribunal** for discharge from Guardianship.
- Your **Nearest Relative** can usually discharge you from Guardianship.
- Sometimes your Local Authority decides your Nearest Relative cannot discharge you. If this happens, your Nearest Relative can ask the Tribunal if they will discharge you.
- Your **Local Authority** can discharge you from Guardianship at any time and so can your **Responsible Clinician**.
- Your Guardianship would end straight away if you were detained in hospital for treatment of your Mental Disorder.





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Where in the code?

This easy read fact sheet comes from:

- DH Mental Health Act 1983: Code of Practice: Chapter 30 'Guardianship' pages 342-348

Download the code:

www.gov.uk/government/uploads/system/uploads/attachment_data/file/396918/Code_of_Practice.pdf

Download the easy read fact sheets:

www.nhs.uk/easy-mentalhealthact

Download the easy read glossary:

www.nhs.uk/glossary

More information:

Mind UK Sectioning and Guardianships:

www.mind.org.uk/information-support/legal-rights/nearest-relative/sectioning-and-guardianships/#.VQI7EhCsVSs