

YOUR RIGHTS

You should read the questions and answers below to find out your rights and what may happen to you after you are brought to a hospital.

WHAT HAPPENS AFTER I ARRIVE AT HOSPITAL?

You must be seen by a hospital doctor not later than 12 hours after you arrive at the hospital.

If you are a person who is already in hospital as an informal patient, and you have been told you are now to be kept in hospital against your will, you must be seen by a hospital doctor not later than 12 hours after it is decided to keep you in hospital.

WHEN CAN I BE KEPT IN HOSPITAL AGAINST MY WILL?

You can be kept in hospital against your will if you are certified by the hospital doctor as a mentally ill person or a mentally disordered person. The doctor will decide whether you are a mentally ill person or a mentally disordered person.

A mentally ill person is someone who has a mental illness and who needs to be kept in hospital for his or her own protection or to protect other people. A mentally disordered person is someone whose behaviour shows that he or she needs to be kept in hospital for a short time for his or her own protection or to protect other people.

The hospital cannot continue to keep you against your will unless at least one other doctor also finds that you are a mentally ill person or a mentally disordered person. At least one of the doctors who sees you must be a psychiatrist.

HOW LONG CAN I BE KEPT IN HOSPITAL AGAINST MY WILL?

If you are found to be a mentally disordered person, you can only be kept in hospital for up to **3 DAYS** (weekends and public holidays are not counted in this time). During this time you must be seen by a doctor at least once every 24 hours. You cannot be detained as a mentally disordered person more than 3 times in any month.

If you are found to be a mentally ill person, you will be kept in hospital until you see a Magistrate who will hold an inquiry to decide what will happen to you.

HOW CAN I GET OUT OF HOSPITAL?

You, or a friend or relative, may at any time ask the medical superintendent to let you out. You must be let out if you are not a mentally ill person or mentally disordered person or if the medical superintendent thinks that there is other appropriate care reasonably available to you.

CAN I BE TREATED AGAINST MY WILL?

The hospital staff may give you appropriate medical treatment, even if you do not want it, for your mental condition or in an emergency to save your life or prevent serious damage to your health. The hospital staff must tell you what your medical treatment is if you ask. You must not be given excessive or inappropriate medication.

CAN I BE GIVEN ECT AGAINST MY WILL?

Yes, but only where the Mental Health Review Tribunal determines, at a hearing that it is necessary or desirable for your safety or welfare. You have a right to attend that hearing.

WHAT OTHER RIGHTS DO I HAVE IN HOSPITAL?

You can receive mail. You must not be ill-treated.

MORE INFORMATION

You should read the questions and answers below to find out about Magistrates' inquiries and when you may be kept in hospital against your will after an inquiry.

WHEN IS A MAGISTRATE'S INQUIRY HELD?

A Magistrate's inquiry must be held as soon as possible after it is decided to keep you in hospital against your will because you are a mentally ill person.

WHAT HAPPENS AT A MAGISTRATE'S INQUIRY?

The Magistrate will decide whether or not you are a mentally ill person.

If the Magistrate decides that you are not a mentally ill person, you must be let out of hospital. The Magistrate may make a Community Counselling Order requiring you to have certain treatment after you are let out.

If the Magistrate decides that you are a mentally ill person, the Magistrate will then decide what will happen to you. Consideration must be given to the least restrictive environment in which care and treatment can be effectively given. The Magistrate may order that you be kept in hospital as a **TEMPORARY PATIENT** for a set time (not more than 3 months) or the Magistrate may order that you be let out of hospital. If you are let out, the Magistrate may make a Community Treatment Order requiring you to have certain treatment after you are let out.

The Magistrate may adjourn the inquiry for up to 14 days where he or she considers that it is in your best interests.

If the Magistrate makes an order that you are to remain in hospital as a Temporary Patient, the Magistrate must also consider whether you are capable of managing your financial affairs. If the Magistrate is not satisfied that you are capable, an order must be made for management of your affairs under the *Protected Estates Act 1983*.

WHAT RIGHTS DO I HAVE AT A MAGISTRATE'S INQUIRY?

You can tell the Magistrate what you want or have your lawyer tell the Magistrate what you want. You can wear street clothes, be helped by an interpreter and have your relatives and friends told about the inquiry. You can apply to see your medical records.

WHAT ARE MY RIGHTS OF APPEAL IF I HAVE BEEN MADE A TEMPORARY PATIENT?

You (or a friend or relative) may at any time ask the medical superintendent to discharge you. If the medical superintendent refuses or does not respond to your request within 3 working days, you (or a friend or relative) may lodge an appeal with the Mental Health Review Tribunal.

You will be given a notice setting out your appeal rights.

WHAT HAPPENS WHEN THE TIME SET BY AN ORDER MAKING ME A TEMPORARY PATIENT HAS NEARLY ENDED?

The hospital medical staff will review your condition before the end of the order and the hospital may either discharge you or apply to the Mental Health Review Tribunal for a further order.

The Tribunal must let you out of hospital if it decides that you are not a mentally ill person or if it feels that other care is more appropriate and reasonably available.

WHO CAN I ASK FOR HELP?

You may ask any hospital staff member, official visitor, chaplain, your own lawyer or the Mental Health Advocacy Service for help. The Mental Health Advocacy Service telephone number is 9745 4277.