



Consent to treatment

Explains your rights around giving consent to or refusing treatment. Find out what consent means, when you could be treated without your consent, and how to make complaints.

- This information applies to England and Wales.
- This information applies to adults. It doesn't apply to children unless specifically stated.

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Overview of consent to treatment

Healthcare professionals may suggest certain kinds of treatments for your [mental health problem](#). But in most situations, they can't lawfully treat you unless you agree to that treatment. This is called **giving consent**.

Quick facts

- Generally, you need to give your [consent](#) before receiving any kind of health treatment.
- To give consent, you need to have [capacity](#) to decide, have enough [information to make that decision](#), and give your consent freely.
- If you're treated without your consent, this is usually against the law. However, there are some exceptions. You can legally receive treatment without your consent if:
 - You are detained, also called [sectioned](#), under some sections of the [Mental Health Act](#). For more information, see our pages on [sectioning](#).
 - You don't have capacity to decide whether to have treatment. For more information, see our pages on [capacity](#).
 - It's an emergency life-saving treatment.
- The rules on being [treated without your consent](#) are slightly different depending on whether you are:
 - Living in the community without restrictions. For example, at home or in a care home.
 - A [voluntary patient](#). For example, having in-patient treatment in a psychiatric hospital of your own free will.
 - On a [community treatment order](#) (CTO).
 - In hospital under a section of the Mental Health Act.
- If you don't have capacity to make a decision about treatment, the health professional in charge of your treatment will normally make a decision for you. They have to consider your [best interests](#) when doing this.
- If you're worried that you may one day lose capacity to make your own decisions about treatment, you can [plan ahead](#). This might include making an [advance decision](#), [advance statement](#) or [lasting power of attorney](#).
- If you feel that you've been forced to have treatment that you haven't given consent to, you can [make a complaint](#).

These pages contain general legal information, not legal advice. We recommend you get advice from a specialist legal adviser or solicitor who will help with your individual situation and needs.

For organisations that may be able to help, see our page of [useful contacts](#).

What is ‘consent to treatment’?

This page covers:

- [What does ‘consent to treatment’ mean?](#)
- [What does ‘having capacity’ mean?](#)
- [How can I get information about treatment?](#)
- [Can I agree to treatment if I lack capacity?](#)

What does ‘consent to treatment’ mean?

Giving ‘consent to treatment’ for mental health means both that:

- **You agree** with a health professional about a treatment they've suggested for you.
- **You have given your [consent](#) verbally or in writing** to receiving that treatment. In some cases you can also give non-verbal consent, for example holding out your arm for a blood test.

Generally, you need to give your consent before receiving any treatment. While there are some [exceptions](#), if a health professional gives you treatment without your consent, this may be a criminal offence.

To be able to consent to treatment, you need to meet all of the following criteria:

- You have [capacity](#) to make the decision.
- You are at least 16 years old – this is a general rule, the NHS has some further [information and exceptions for people under 18](#).
- You have enough [information about the treatment](#) to make your decision.
- You are giving your consent freely – in other words, you do not feel pressured or threatened into a certain decision.

Even if you have consented to treatment, you can change your mind at any time. If so, you can let your care team know.

Example: not giving consent freely

Jamie is a voluntary patient in hospital receiving treatment for their mental health problem. One of the treatments available is group therapy, but Jamie really doesn't want to do this.

A member of staff tells Jamie that if they don't participate in group therapy, then it's pointless for them to be there. The member of staff also says that if Jamie tries to leave, they will be sectioned.

Because of this, Jamie agrees to doing group therapy. However, Jamie has been coerced – forced through pressure and threats – into agreeing to the treatment. In this case, they have not given their consent freely.

What does 'having capacity' mean?

'Having capacity' means being able to understand information and make decisions about your life.

To have capacity to consent to treatment, you must be able to do all of the following:

- Understand the information relevant to the decision.
- Retain that information.
- Use or weigh up that information as part of the decision-making process.
- Communicate your decision. This could be through talking, using sign language or any other way.

You are said to 'lack capacity' to make decisions about your treatment if:

- You do not understand the information.
- You are unable to make a decision about your treatment because of this.

For more details, see our page on [capacity](#).

How can I get information about treatment?

In order to make a decision about treatment, you should have enough information to consider the positives and negatives. It might help to ask your health professional to answer any questions you have.

For example, you could ask:

- Will this treatment work?
- Will you force me to have treatment?
- How long will it take to work?
- Does it have side effects?
- Are the side effects permanent?
- Is there anything to counter the side effects?
- Are there any alternatives to this treatment?
- What is the success rate of this treatment?
- Why are you recommending it?
- What will happen if I don't have the treatment?
- What care and treatment guidelines does the National Institute for Health and Care Excellence (NICE) recommend for this diagnosis?

NICE is an independent organisation that provides national guidance on health and care in England and Wales. For more information, visit the [NICE website](#).

Healthcare professionals should do their best to give you clear information about any suggested treatment. NICE guidance states that healthcare professionals should help you make decisions about your treatment, so that you can make an informed decision.

You can also speak to your local pharmacist for information about [medication](#).

For more tips on getting clear, balanced information, see our pages on [making sense of your options](#) and [being actively involved in treatment](#).

Can I agree to treatment if I lack capacity?

If you [lack capacity](#) to make a decision, the health professional in charge of your treatment will make the decision in your [best interests](#). This could be treatment for a mental or physical health problem. Some more serious treatments can only be decided by the [Court of Protection](#).

The health professional making the decision will take lots of things into account. For example, this could also include talking to your family and friends.

If you're worried about losing capacity to make treatment decisions in the future, there are things you can do to [plan ahead](#).

For more information about lacking capacity, see our pages on the [Mental Capacity Act 2005](#).

Example: lacking capacity

Ali lives in a care home. He lacks capacity to decide whether to have life-saving treatment for a physical health problem because of his [delusions](#). The [Court of Protection](#) will decide whether he needs the physical treatment. It will take his wishes and feelings into account.

Could I be treated without my consent?

Generally, the law says that **you could be treated without your [consent](#)** in these situations:

- You are detained, also called [sectioned](#), under some sections of the [Mental Health Act](#). For more information, see our pages on [sectioning](#).
- You don't have [capacity](#) to decide whether to have treatment. For more information, see our page on [capacity](#).
- It's an emergency, life-saving treatment.

But the rules on treatment without consent can be slightly different depending on your exact situation.

This page covers **your rights to refuse treatment** in the following situations:

- [Living in the community \(without restrictions\)](#)
- [In hospital as a voluntary patient](#)
- [On a community treatment order \(CTO\)](#)
- [In hospital under section](#)
- [Being treated for a physical health problem](#)
- [Use of restraint without consent](#)

Living in the community (without restrictions)

You have the right to refuse treatment. You cannot legally be treated without your consent if you're living in the community without any restrictions, for example at home or in a care home. This includes the right to refuse [medication](#) prescribed to you.

If you want to refuse treatment, you should discuss your reasons for refusal and other options with your care team. Health professionals cannot threaten to [section](#) you to force you to consent to treatment. If they do, you can [make a complaint](#).

An exception to this is if you lack [capacity](#) to consent to treatment.

If you're thinking of coming off your medication, remember that it's best to come off gradually, not suddenly. Try to get support from people you trust – ideally a health professional.

For more information on stopping medication safely, see our pages on [coming off psychiatric drugs](#).

In hospital as a voluntary patient

You have the right to refuse treatment. As a [voluntary patient](#), you cannot legally be treated without your consent. This includes the right to refuse [medication](#) prescribed to you.

If you want to refuse treatment, you should discuss your reasons for refusal and other options with your care team. Health professionals cannot threaten to [section](#) you to force you to consent to treatment. If they do, you can [make a complaint](#).

An exception to this is if you lack [capacity](#) to consent to treatment.

For more information, see our pages on [voluntary patients](#).

On a community treatment order (CTO)

You don't always have the right to refuse treatment. But in general, you cannot legally be treated without your consent if you're on a [CTO](#):

- You can't be given a condition in your CTO that forces you to have treatment.
- You can't be [recalled](#) to hospital just because you refuse treatment.

However, if you refuse or stop treatment and there is a risk of relapse, your [responsible clinician](#) may have good reasons to [recall you to hospital](#) to force you to have treatment. This can happen **even if you aren't showing symptoms** of relapse yet.

For more information, see our pages on [CTOs](#).

Can I refuse to be on a CTO?

You can be put on a CTO even if you don't want to be. But you should still be involved in decisions about your treatment.

To find out more, see our information about [when a CTO can be made](#).

In hospital under section

You don't always have the right to refuse treatment. But in general, you need to give consent before you can lawfully be treated for your mental health problem.

However, the [Mental Health Act](#) says **you can be treated against your consent in either of these situations:**

- You're in hospital under a [section](#) 2, 3, 36, 37, 38, 47, 48 or 45A with or without restrictions. For information on what each section number means, see our pages on [sectioning](#).
- You've been [recalled](#) to hospital from a [CTO](#).

As well as this, the following types of hospital treatment have special rules on consent. Health professionals have to follow these rules before giving treatment:

Neurosurgery (NMD) or hormone implants to reduce male sex drive

You can only be given [NMD](#) or hormone implants to reduce male sex drive if **both** of these requirements are met:

- You consent to the treatment.
- A [second opinion appointed doctor](#) (SOAD) agrees to the treatment.

You still might be treated without your consent if the treatment is immediately necessary to:

- Save your life.
- Stop your condition from getting a lot worse.
- Help to improve serious suffering.
- Prevent you from behaving violently or being a danger to yourself or others. As long as the treatment represents the minimum interference necessary.

Electroconvulsive therapy (ECT)

You can only be given [ECT](#) in **either** of the following situations:

- You consent to the treatment and it is agreed by a [SOAD](#) or doctor in charge.
- A SOAD confirms that you lack [capacity](#) to consent. They must also confirm that ECT is appropriate to be given as a treatment. If you have an [advance decision](#), a SOAD should take these wishes into consideration, but they do not have to follow them.

You still might be treated without your consent if the treatment is immediately necessary to:

- Save your life.
- Stop your condition from getting a lot worse.

Medication after an initial 3-month period

You can only be given [medication](#) after an initial 3-month period in **either** of the following situations:

- You consent to taking the medication.
- A [SOAD](#) confirms that you lack [capacity](#).
- You haven't given consent, but a SOAD confirms that this treatment is appropriate to be given.

You still might be treated without your consent if the treatment is immediately necessary to:

- Save your life.
- Stop your condition from getting a lot worse.
- Help to improve serious suffering.
- Prevent you from behaving violently or being a danger to yourself or others. As long as the treatment represents the minimum interference necessary.

If you have an [advance decision](#) or an [advance statement](#), health professionals should take these into consideration when treating you – even though they don't always have to follow them.

For more information, see our page on [planning ahead](#).

Being treated for a physical health problem

You don't always have the right to refuse treatment. If you're being treated for a physical health problem unrelated to your mental health problem, health professionals can't usually treat you without your consent.

You can be treated for a physical health problem without your consent in **either** of these situations:

- You lack [capacity](#).
- Your physical health problem is a symptom or underlying cause of a mental health problem. In this case, the [Mental Health Act](#) says that you can be treated without your consent.

Example: physical health treatment without consent

Toni has a diagnosis of [anorexia](#), a type of eating problem. She is detained under [section 3](#) of the Mental Health Act.

It is lawful for her care team to give her food against her consent through a nasogastric tube (up her nose). This is because it's a physical health treatment related to her mental health problem.

Use of restraint without consent

The law says that, in situations where you can **lawfully be given treatment for your mental health problem without your consent**, then you can also be **lawfully restrained** in order to give you that treatment.

Any type of restraint used must comply with the statutory guidance on [Mental Health Units \(Use of Force\) Act 2018](#). You might also hear this called Seni's Law. This guidance includes the fact that any force used to restrain you must comply with the [Human Rights Act 1998](#).

For more information about your human rights protection, see our pages on the [Human Rights Act](#).

Planning ahead for treatment

This page covers:

- [Why might I want to plan ahead?](#)
- [How can I plan ahead?](#)

Why might I want to plan ahead?

Planning ahead is a way for you to set out how you want to be treated in future, so health professionals can follow your wishes.

Generally, you have the right to decide if you want to [consent](#) to treatment. But if something happens in the future which means you lack [capacity](#) to decide:

- The health professional in charge of your care will normally decide for you, unless it's a serious treatment.
- Their decision will be based on what they think will be in your [best interests](#). But this might not be exactly what you want.

If you're [sectioned](#), health professionals should take your wishes into account when treating you, but they don't have to follow them.

How can I plan ahead?

There are 3 main ways you can plan ahead and set out your wishes for future treatment:

- **Make an advance statement.** This is a written document setting out your preferences for medical and healthcare treatment. It includes only your treatment preferences, not refusals. **It is not legally binding.** You can ask a health professional to follow this document if you ever lack [capacity](#) to make these decisions yourself.
- **Make an advance decision.** This can be a written document or spoken statement of instructions. It sets out any medical and healthcare treatment you want to refuse. It includes only your treatment refusals, not preferences. **It is legally binding.** It can be used in the future at any point where you lack capacity to make decisions. For more information, see our page on [advance decisions](#).
- **Make a lasting power of attorney.** This is a legal document that lets you choose someone to make decisions for you. For more information, see our page on [lasting power of attorney](#).

You can find out more about each of these ways to plan ahead in our pages on the [Mental Capacity Act 2005](#). Find information about crisis services and planning options in our pages on [crisis services](#).

Making complaints about consent to treatment

You can challenge or complain about your [consent](#) to treatment for a mental health problem. You might feel that:

- You've received treatment that you haven't given consent to.
- You were in a situation where it was not [lawful to treat you without consent](#).

There are generally 3 steps you can take to challenge this:

1. **Speak to someone informally.** Depending on the problem, you might want to first try resolving it by informally talking to the person responsible for your treatment. For example, this could be your hospital doctor or psychiatrist.
2. **Make a formal complaint.** If step 1 doesn't resolve the problem, you can ask that person or organisation for their formal complaints procedure. This will involve writing a letter to explain the problem and stating what you'd like to happen next.
3. **Make a legal challenge.** There are different types of legal claims you could make. The type you choose will depend on what you want to achieve:
 - **A judicial review.** This is a legal challenge to the way a [public authority](#) has made a decision, or has done or not done something lawfully.
 - **A clinical negligence claim.** This is when you claim compensation because the care you received from a health professional was [negligent](#). For more information, see our pages on [clinical negligence](#).
 - **An application to the Court of Protection.** This would be relevant if someone needs permission from the Court to make decisions about your health, welfare, financial affairs or property. For more information, see our page on the [Court of Protection](#).

For more information about each of these steps, see our pages on [complaining about health and social care](#).

Useful contacts – consent to treatment

Mind's services

- [Mind's Legal Line](#) provides legal information and general advice by phone.
- [Local Minds](#) offer face-to-face services across England and Wales. These services include talking therapies, peer support and advocacy.

How to find an advocate

To find [advocacy](#) services and groups in your area, you could call Mind's Legal Line on [0300 466 6463](tel:03004666463) or contact your local Mind.

If you're in hospital, you can also contact the:

- [Patient Advice Liaison Service \(PALS\)](#) in England.
- [Community Health Council](#) in Wales.

In some situations, you may be legally entitled to the support of an advocate. For more information, see our page on [your legal rights to advocacy](#).

Other organisations

Action Against Medical Accidents (AvMA)

[0845 123 2352](tel:08451232352)

avma.org.uk

Advice and support for people affected by avoidable harm in healthcare.

Care Quality Commission (CQC)

cqc.org.uk

Regulates and inspects health and social care services in England.

Civil Legal Advice (CLA)

[gov.uk/civil-legal-advice](https://www.gov.uk/civil-legal-advice)

Can tell you if you're eligible for legal aid, and give you free and confidential legal advice if so.

Equality and Human Rights Commission (EHRC)

[equalityhumanrights.com](https://www.equalityhumanrights.com)

Promotes and monitors human rights and equality.

First-tier Tribunal (Mental Health)

[gov.uk/courts-tribunals/first-tier-tribunal-mental-health](https://www.gov.uk/courts-tribunals/first-tier-tribunal-mental-health)

Deals with cases in England relating to the Mental Health Act 1983.

Healthcare Inspectorate Wales (HIW)

[hiw.org.uk](https://www.hiw.org.uk)

Independent regulator for healthcare in Wales, where you can make complaints and provide feedback.

HealthWatch England

[healthwatch.co.uk](https://www.healthwatch.co.uk)

Helps represent people who use health and social care services in England.

Law Centres Network

[lawcentres.org.uk](https://www.lawcentres.org.uk)

Information about Law Centres, which defend the legal rights of people who can't afford a lawyer. Includes a searchable directory.

LawWorks

[lawworks.org.uk](https://www.lawworks.org.uk)

Connects volunteer lawyers with people who aren't eligible for legal aid and can't afford to pay for legal advice. Includes details of free legal advice clinics.

Mental Health Lawyers Association

[mhla.co.uk](https://www.mhla.co.uk)

Professional association for solicitors specialising in mental health law. Includes a list of solicitors by local area.

National Institute for Health and Care Excellence (NICE)

[nice.org.uk](https://www.nice.org.uk)

Produces guidelines on best practice in healthcare.

Office of the Public Guardian

[gov.uk/government/organisations/office-of-the-public-guardian](https://www.gov.uk/government/organisations/office-of-the-public-guardian)

Protects people in England and Wales who may not have the mental capacity to make certain decisions for themselves, such as about their health and finance.

Parliamentary and Health Service Ombudsman

[0345 015 4033](https://www.ombudsman.org.uk)

[ombudsman.org.uk](https://www.ombudsman.org.uk)

Makes final decisions on complaints that have not been resolved by the NHS in England and UK government departments.

Public Services Ombudsman for Wales

[0300 790 0203](https://www.ombudsman-wales.org.uk)

[ombudsman-wales.org.uk](https://www.ombudsman-wales.org.uk)

Looks into complaints about public services and independent care providers in Wales.

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References are available on request.