

- If the person is re-classified from 'involuntary' to 'voluntary', or from 'voluntary' to 'involuntary'
- If it is proposed to transfer the person to another mental health facility
- If the person has been transferred to another mental health facility
- About discharge and other planning
- Types of treatment, such as Electro Convulsive Therapy (ECT)

Reviews and inquiries⁷ by the Tribunal concerning:

- Continuing detention
- Community Treatment Orders
- The use of Electro Convulsive Therapy (ECT) for an involuntary patient
- A surgical procedure or special medical treatment for an involuntary patient

Carers also have the right to request:

- A person be detained in a mental health facility for the purpose of assessment⁸
- A person be discharged⁹ or appeal against a refusal to discharge¹⁰
- To talk to an Official Visitor
- Appeal to the Mental Health Tribunal against the refusal to discharge the consumer

⁷ Section 76 of the Mental Health Act 2007 NSW

⁸ Section 26 of the Mental Health Act 2007 NSW

⁹ Section 43(1) of the Mental Health Act 2007 NSW

¹⁰ Section 44(1) of the Mental Health Act 2007 NSW



Find More Information

- **More information on Carers Rights**
mhrm.mhcc.org.au/chapters/9-carers-of-people-with-mental-health-conditions/9a-carers-of-people-with-mental-health-conditions-overview/
- **Mental Health Review Tribunal**
www.mhrt.nsw.gov.au/the-tribunal/
- **Mental Health Act**
www.legislation.nsw.gov.au/view/html/inforce/current/act-2007-008
- **Official Visitor Program**
www.officialvisitorsmh.nsw.gov.au/Pages/OVP.aspx

Scan the QR code to access all brochures.



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 **Mental Health Carers NSW**

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Information for Carers of a person with Mental Health Issues

Carer Rights

The Mental Health Act recognises the rights of carers. These rights apply in public hospitals, private hospitals, and community mental health services.

The Act identifies two types of carers: 'designated carer' and 'principal care provider'.

You may also have rights as a carer under the Act even if you have not been formally nominated as one of these.



Designated Carers

The person receiving care can nominate, in writing, one or two designated carers¹. Usually, a designated carer has a close and personal relationship with the person receiving care and is interested in the person's welfare. The designated carer does not necessarily provide day-to-day support for the person receiving care.

If a guardian has been appointed² for the person, the guardian automatically becomes the designated carer. If the person is under the age of 14 years their parent is normally the designated carer.

If there is no nomination by the person, the designated carer can be:

- A spouse, if there is a close and continuing relationship
- A person who provides unpaid support or care to the person
- A close friend or relative



¹ Section 71 of the Mental Health Act 2007 NSW

² A guardian is someone who can make healthcare, lifestyle, and medical decisions on behalf of a person who lacks decision-making ability. A guardian is appointed by the NSW Civil & Administrative Tribunal.

Principal Care Providers

The Principal Care Provider³ is the person who provides unpaid day to day support/care for the person.

The authorised medical officer or director of community mental health services may determine who is the principal care provider. The principal care provider can also be a designated carer nominated by the person.

You can ask one of the treating team to check if your role is recorded in writing in the medical record either as a designated carer or principal care provider.

If you are providing care of the person, it is important that your role as carer is formally recognised by the treating team.

You can discuss your options with them if you have not been nominated as a carer by either the person receiving care or the treating team.



Carers Can Be Excluded

The treating team cannot give you information if the person receiving care, excludes you in writing⁴, even if you think you are the main provider of care.

³ Section 72A of the Mental Health Act 2007 NSW

⁴ Section 72(2) of the Mental Health Act 2007 NSW

However, the treating team is not required to recognise a person who has been nominated or excluded as a designated carer or principal care provider, if:

- They believe that to do so may put the person or the carer at serious risk of harm, or
- There are grounds to believe that the person at the time of a nomination or exclusion lacked the capacity to make such decisions

The person receiving care can vary or revoke their nomination or exclusion of a person as a designated carer.

The nominations and exclusions stay in place for one year unless varied or revoked.

Persons under 18 years cannot exclude their parents from being recognised as designated carers⁵.

Use the QR code in this brochure to access the 'Information Sharing' brochure.



Your Rights as a Carer

Reasonable steps must be taken to advise you, as a carer, about the following⁶

Admission, transfers, and discharge:

- If the person is admitted to a Mental Health Unit
- If the person is absent from the mental health unit without permission

⁵ Section 72(3) of the Mental Health Act 2007 NSW

⁶ Section 78 and 79 of the of the Mental Health Act 2007 NSW

