

# DIRECTIONS

2019

## Cardiff and the Vale of Glamorgan

A guide to older people's mental health services,  
including younger people with dementia

Details correct at time of print



# Contents

## Carers Assessment & Carers Allowance

Benefits for you and the person you care for P7

Financial Aspects of Caring P7-8

Community and Residential Care: paying for services P8-9

Financial Assessments P9-10

Financial Help for People at Home P10-12

Council Tax exemptions and discounts P12-13

Housing Benefit P13-14

Blue Badge Scheme P14

Income Support P14

Choosing a Home P14

Moving to a Care Home in Another Area P15

Financial Arrangements for the Cared for Person P15-17  
When Caring Ceases P17-22  
Legal / Protection Aspects of Caring P22-23

Guardianship P23-30

Mental Health Act 1983 P30-35

## Are you Involved?

Carer and Service User

Involvement in Mental Health Services for Older People

What is Carer & Service User Involvement? P39

## Booklist - Useful Reading & Useful Websites

Books P43-46

Websites P46-47

# **Carers Assessment & Carers Allowance**

**04**

In order to obtain help from your local social services department, you and the person you care for may be offered an assessment of need. The person you care for may have an assessment called an Integrated Assessment. As a carer, you are entitled to have your needs considered and this is called a Carer's Assessment.

Social Services have a duty (now enshrined in law in the 'Social Services and Wellbeing (Wales) Act 2014'), to assess if carers need any support. An assessment gives you a chance to talk to someone about what support might make caring easier.

As a Carer you need to recognise your own needs for help and support, and you have a right to expect others, such as professionals in health and social care, to recognise those rights and direct you towards support which is appropriate for your individual situation.

You have a right to request a Carer's Assessment if you provide or intend to provide unpaid care for an adult or disabled child. The assessment looks at your support needs as a carer. When carrying out the assessment the local council must:

- seek to identify how caring affects your life and what outcomes you wish to achieve to look after your own well-being
- assess whether the provision of support, preventative services, information, advice or assistance could contribute to help you achieve those well-being outcomes.
- consider what well-being outcomes you wish to achieve and work with you to produce solutions

The carer's assessment will look at support, preventative services, whether a carer works or wishes to do so and if a carer wants to participate in education, training or any leisure activity.

It is the level of 'support', if identified, which determines what help can be provided by social services. A social worker or a carers support officer will visit you to talk about what help would be useful to you and the person you care for. Some of the things you will talk about are:

- Carer's circumstances
- Personal Outcomes and barriers to achieving these outcomes
- The risks if these outcomes are not achieved
- Carer's strengths and capabilities

An assessment gives you the chance to:

- Think about your needs
- Consider the impact of caring on your 'well-being'
- Talk, in private, to someone who understands your situation
- Be listened to
- Think about whether you feel you can go on caring and the choices you have
- Talk about the support you think is important to carry out your role and to maintain your health and well being

The assessment will also look at your ability and willingness to continue caring. You can get a Carer's Assessment even if the person you care for doesn't have an assessment of their own needs and even if the cared for person says they don't want you to have your own assessment. If you were assessed in the past and your needs have changed you can get a re-assessment. The assessment is normally carried out by a social worker, but can also be carried out by any health or social care professional through the Community Mental Health Team.

To request a Carer's Assessment:

If you care for someone living in the Vale of Glamorgan call Contact One Vale on 01446 700 111

If the person you care for lives in Cardiff call the First Point of Contact on 029 20 234 234.

# Benefits for you and the person you care for

You and/or the person you care for may be entitled to financial help depending on your age, needs and income. You can either contact organisations directly or seek advice from an independent organisation such as Citizens Advice. The Department for Work and Pensions has a freephone confidential helpline for disabled people and carers on 0800 88 22 00. DWP also offers support on GOV.UK <https://www.gov.uk/disability-benefits-helpline>

There are a number of benefits to which both you, and/or the person you care for, may be entitled. To ensure you are both receiving all your entitlements and getting all the financial support available to you, it is worth getting in touch with organisations such as City of Cardiff Council Advice Hub, Citizens Advice, Age Connects etc who have specialist advisors who can help you with this.

If you claim Carer's Allowance, the quickest and easiest way is online, claims can be made on PCs, tablets and mobile phones [www.gov.uk/carers-allowance/how-to-claim](http://www.gov.uk/carers-allowance/how-to-claim)

If you live in Cardiff, you can get help from the Council's Advice Hubs Call C2C on 029 2087 2087 to find out your nearest hub. The Central Library Hub can be contacted on 029 2087 1000.

## Financial Aspects of Caring

Note: These financial information pages are general guidelines only and information is likely to change. Please check with the appropriate departments provided with regard to your personal situation.

- Community and residential care - paying for services
- Financial help for people caring at home

- Choosing a home
- Financial arrangements for the cared person
- When caring ceases

## Community and Residential Care: paying for services

Your assessments and all information and advice from your Local Authority is completely free. The cost of any services you receive depends on your specific financial situation and the service provided.

You do not have to pay for any services provided by the NHS. If you need nursing care, NHS nurses can come to your home or care home. If you need to move to a care home that provides nursing care, then the NHS will pay a fixed amount for the nursing part of the home's fees.

You might also be eligible for Continuing NHS Health Care. In this case, your services would be fully covered by the NHS and you would receive it in an NHS building or a care home with nursing.

If you decide to receive it at home, NHS would cover your nursing services, but not general support costs.

## Services provided at home

The cost of services delivered in your own home will depend on many things.

Generally, you will have to pay some of the cost of your care if your savings or capital (excluding the value of your house) is above a certain amount. There will be a cap on how much you will be charged weekly.

Your Social Worker or Visiting Officer will tell you the capital limit amount and current maximum charge per week.

## Care Homes

If the service is a care home with or without nursing, then you will have to pay something towards it, unless you have aftercare under Section 117 of the Mental Health Act 1983.

Generally, if your savings or capital (excluding the value of your house) is:

- above a certain amount, you will have to pay the cost of your care, with a cap on how much you will be charged weekly
- below that capital limit, and your only income is the state pension (plus guarantee credit if applicable), then you will be left with a personal allowance

Your Social Worker or Visiting Officer will tell you the capital limit amount and current maximum charge per week

Some people prefer to make their own arrangements.

If we are funding your services, the Direct Payments Scheme allows you to do this and pay your care staff yourself while we oversee that money is properly used.

Details about this would also be included in your care and support plan.

## Financial Assessments

Our Financial Assessment Officers, who are also Welfare Benefits Advisors, will invite you to carry out a Financial Assessment of your individual circumstances. They work to provide specialist information and support to identified social services clients.

Contacts:

Vale of Glamorgan

Financial Assessment Officers/Benefits Advisors:  
01446 704890 or 704747 or 704706

OneVale (C1V):  
01446 700111, email: [C1V@valeofglamorgan.gov.uk](mailto:C1V@valeofglamorgan.gov.uk)

Cardiff

Connect to Cardiff  
029 2087 2087 or through the website [www.cardiff.gov.uk/ENG/](http://www.cardiff.gov.uk/ENG/Home/Contact-us/General-enquiries)  
[Home/Contact-us/](http://www.cardiff.gov.uk/ENG/Home/Contact-us/General-enquiries) General-enquiries

## Financial Help for People at Home

This section has information on the following:

- Attendance Allowance
- Carers Allowance
- Council Tax Exemptions and Discounts Personal
- Independence Payment (PIP)
- Housing Benefit
- Blue Badge Scheme
- Income Support

### Attendance Allowance

You can get Attendance Allowance if you're 65 or over and the following apply:

- you have a physical disability (including sensory disability, eg blindness), a mental disability (including learning difficulties), or both
- your disability is severe enough for you to need help caring for yourself or someone to supervise you, for your own or someone else's safety

It is paid at two different rates and how much you get depends on the level of care that you need because of your disability.

The other benefits you get can increase if you get Attendance Allowance.

Use form AA1 to apply for Attendance Allowance by post. The form comes with notes telling you how to fill it in and where to send it.

You can get a copy of the form from the Attendance Allowance helpline.

Attendance Allowance helpline

Telephone: 0345 605 6055 Textphone: 0345 604 5312

Monday to Friday, 8am to 6pm

For more information also see [www.gov.uk/attendance-allowance](http://www.gov.uk/attendance-allowance)

## Carers Allowance

You could get Carers Allowance if you care for someone at least 35 hours a week and they get certain benefits.

You don't have to be related to, or live with, the person you care for. You won't be paid extra if you care for more than one person.

To get information on Carer's Allowance and how to make a claim:

General enquiries [cau.customer-services@dwp.gsi.gov.uk](mailto:cau.customer-services@dwp.gsi.gov.uk)

Telephone: 0345 608 4321 Textphone: 0345 604 5312

Monday to Thursday, 8:30am to 5pm, Friday, 8:30am to 4:30pm

Wolverhampton

WV98 2AB

For more information visit [www.gov.uk/carers-allowance](http://www.gov.uk/carers-allowance)

Council Tax exemptions and discounts

Council Tax is a tax on property, but also takes into consideration the people who live there. Some properties can be exempt, for example if the resident is in hospital or residential care, or where a carer has gone to a relative's home to care for them. There are also certain discounts. People living alone can claim a discount and so can people living with people who are 'discounted'. This list includes people who are 'severely mentally impaired' (this can include people suffering from dementia), and carers looking after anyone other than their husband/wife or child under 18. There are also reductions for homes occupied by a disabled person where alterations have been made to the property to make it more suitable.

How to claim:

By letter to your local Council if you are on a low income you may be able to get help from the Council Tax Reduction Scheme.

### Personal Independence Payment (PIP)

Personal Independence Payment (PIP) is replacing Disability Living Allowance (DLA) for people with a long-term health condition or disability aged 16 to 64.

It helps with some of the extra costs caused by long-term ill-health or a disability if you're aged 16 to 64.

The rate depends on how your condition affects you, not the condition itself.

You'll need an assessment to work out the level of help you get. Your rate will be regularly reassessed to make sure you're getting the right support.

DWP - Personal Independence Payment claims

Telephone: 0800 917 2222 Textphone: 0800 917 7777

Monday to Friday, 8am to 6pm

For more information visit [www.gov.uk/pip](http://www.gov.uk/pip)

## Housing Benefit

You could get Housing Benefit to help you pay your rent if you're on a low income. Housing Benefit can pay for part or all of your rent. How much you get depends on your income and circumstances.

You can apply for Housing Benefit whether you're unemployed or working. If you claim the following benefits:

Employment and Support Allowance

Income Support

Jobseeker's Allowance

Contact Jobcentre Plus who will send details of your claim for Housing Benefit to your council.

Jobcentre Plus

Telephone: 0800 055 6688 Textphone: 0800 023 4888

Monday to Friday, 8am to 6pm

If you're claiming pension credit contact the Pension Service to claim Housing Benefit with your claim for Pension Credit.

The Pension Service will send details of your claims for Housing Benefit to your council.

Pension Service

Telephone: 0800 99 1234 Textphone: 0800 169 0133

Monday to Friday, 8am to 6pm

For more information visit [www.gov.uk/housing-benefit](http://www.gov.uk/housing-benefit)

## Blue Badge Scheme

Receiving the higher rate mobility component of DLA or the mobility component of PIP qualifies people for this scheme

which extends your car parking rights. You can also apply for a Blue Badge if you are registered blind or receive a War Pensioner's Mobility Supplement. However, carers should note that technically the car should then only be used "by or for the purposes of the disabled person."

How to claim:

For information contact

Cardiff City Council on 029 2087 3232 or

Vale of Glamorgan Council on 01446 700111

### Income Support

You may also be eligible for Income Support. Visit [www.gov.uk/income-support](http://www.gov.uk/income-support) for more information or contact:

Jobcentre Plus - new claims

Telephone: 0800 055 6688 Textphone: 0800 023 4888

Welsh language: 0800 012 1888

Monday to Friday, 8am to 6pm

### Choosing a Home

If you live with someone who may need to go into residential or nursing care and you are unsure about whether your home will be taken into consideration you may wish to consult a solicitor for advice. You can also get advice and information on legal, financial, and welfare rights by ringing Carers Wales on 029 2081 1370 or the Carers Helpline on 02920 565923 / 02920 566171.

You have the right to choose a care home but finding one that is right might take some time. You should make sure the care home you choose has the facilities, equipment and staff with the right training to meet your needs. Each local Council sets amounts that they normally pay for someone with your assessed needs. If you want to move into a care home that is more expensive, you may need to find a way to pay the difference.

If you have been sectioned under the 1983 Mental Health Act,

and a section 3 has been applied, then your care home fee should be paid in full.

You should also be given a list of registered Residential and Nursing Homes in your locality by your Social Worker. Arrange to visit any homes which you are considering. It is useful to draw up a list of questions beforehand and to describe the needs of the person needing care to the manager of the home to ensure that the home will be able to provide the necessary care. (A useful list of questions produced by the Alzheimer's Society can be found in the Local Services - Residential Care section.) You can also visit [www.direct.gov.uk/DisabledPeople](http://www.direct.gov.uk/DisabledPeople) for more information.

### Moving to a Care Home in Another Area

Local authority funded care in a care home remains with the local authority area the individual is moving from. Residents who want to move to a home in another area should be allowed to do so. There may be problems if homes in the new area are more expensive than your social services will normally pay. Some authorities will only pay the fee levels that apply in their own area. However, there might be circumstances where moving to another area could be an integral part of an individual's assessed needs, e.g. being close to relatives. If a local authority will not pay above their own area's fee levels, they should be challenged, as it implies that they are not prepared to look at an individual's assessed needs.

Regarding the nursing contribution, if a person moves from one care home to another in a different country (e.g. from Wales to England), it is the level of nursing care funding applicable in the destination that applies.

### Financial Arrangements for the Cared for Person

There may come a time when the person you care for is no longer able to make decisions about their own financial affairs. In order to take over the responsibility for handling their affairs there are a number of things you will need to know about.

You can apply for the right to deal with the benefits of someone

who can't manage their own affairs because they're mentally incapable or severely disabled. Only one appointee can act on behalf of someone who is entitled to benefits (the claimant) from the Department for Work and Pensions (DWP). An appointee can be:

- an individual, e.g. a friend or relative
- an organisation or representative of an organisation, e.g. a solicitor or local council

### Appointee's responsibilities

As an appointee you're responsible for making and maintaining any benefit claims. You must:

- sign the benefit claim form
- tell the benefit office about any changes which affect how much the claimant gets
- spend the benefit (which is paid directly to you) in the claimant's best interests
- tell the benefit office if you stop being the appointee e.g., the claimant can now manage their own affairs

*If the benefit is overpaid, depending on the circumstances, you could be held responsible.*

## Apply to become an appointee

Who you phone to apply to depends on the benefit:

- Attendance Allowance - contact the Attendance Allowance helpline **0345 605 6055**
- Disability Living Allowance - contact the disability benefits helpline **0345 605 6055**
- State Pension - contact your local pension centre **0800 731 7898**
- Personal Independence Payment (PIP) - contact the PIP new claims line **0800 917 2222**

- all other benefits - contact Jobcentre Plus 0345 604 3719

There's a different process for tax credits - complete the appointee section on the tax credit claim form explaining why the claimant can't complete and sign the form. You must be over 18 and have a bank account. You don't have to be a relative.

The Tax Credit Office may contact you for more information before deciding whether to make you an appointee or not.

### Next steps

- DWP arranges to visit the claimant to assess if an appointee is needed
- DWP interviews you to make sure you're a suitable appointee
- During the interview, you and the interviewer fill out an appointee application form (Form BF56)
- If DWP agrees with the application you'll be sent Form BF57 (confirming you've been formally appointed to act for the claimant). You're not the appointee until this happens
- Once you're authorised, DWP will monitor the situation to make sure it's still suitable for you and the claimant

### Stop Being an Appointee

Contact DWP immediately if you want to stop being an appointee. Phone the benefit office that deals with the claim - the number will be on any letters they've sent you.

Your appointment can be stopped if:

- you don't act properly under the terms of the appointment
- the claimant is clearly able to manage their own benefits
- you become incapable yourself - let DWP know immediately

### When Caring Ceases

When the person you care for dies you may need to arrange the funeral, return equipment, sort through personal belongings, contact the bank, benefits agency, local authority etc. It is important to give yourself time to deal with your emotions, as

you will most probably be in shock, even if you were prepared for the person's death. Everyone reacts differently to the death of someone close. Not being a carer anymore may bring a lot of unexpected emotions. You may feel relief at not having to spend time caring, guilt that you feel relieved as well as experiencing regret or sadness. Don't ignore these feelings and changes to your life. Friends and relatives are often reluctant to talk about the person who has died out of fear of upsetting you. You may be a private person and not want to share intimate feelings and memories. You need to be honest with those around you about how you want to deal with your feelings. If you would like to talk to someone contact Cruse, a national charity offering free, confidential help to bereaved people.

Telephone: 0808 808 1677  
[helpline@cruse.org.uk](mailto:helpline@cruse.org.uk) [www.cruse.org.uk](http://www.cruse.org.uk)

### Medical Certificate

If the person you care for dies at home you will need to contact the GP. The doctor will give you a Medical Certificate and a Formal Notice, which explains how you register the death. If the person dies at night or at the weekend you will need to contact the GP Out of Hours service. To do this call your GP surgery number, an answer phone message will give you the Out of Hours number to call. If the person you care for dies in hospital or a nursing home the staff will sort out the Medical Certificate. You can request to see the person's body before they are taken to the funeral home. If the death is sudden or the cause of death is uncertain, the doctor will refer the death to a coroner - this is perfectly normal.

When you have a medical certificate you can contact a funeral directors. The funeral directors will be able to support and advise you through this process.

### Registering the death

Once you have the Medical Certificate the death will need to be registered. A death must be registered by the Registrar

in the district in which the death occurred. However, if it is inconvenient for you to attend the Register Office for the area where death took place you may be able to attend your local register office. The death should be registered within 5 days although this may be extended by the Registrar if necessary. Contact details for your local registrar are given below.

In certain circumstances the death will have to be referred to the Coroner by the doctor or by the registrar and the death cannot be registered until the Coroner has decided what action to take. The Coroner may do one of three things:

- Decide to take no action and inform the registrar accordingly
- Hold a Post Mortem examination and issue a Form 100B which takes the place of the Medical Certificate from the doctor
- Hold an Inquest. The Coroner's office will advise you what to do in these circumstances

The death should be registered by a relative, someone who was present at their death or by the person arranging the funeral. It will take about 30 minutes. You will need to take:

- Medical Certificate of cause of death
- NHS number/medical card (if you have them)
- Birth and Marriage Certificates (if you have them)

You will also need to be able to tell the Registrar their:

- full name (and maiden name if appropriate)
- address
- date and place of birth (town, county and country)
- occupation
- date and place of death
- marital status - if they were married, the name, address, date of birth and occupation of their spouse
- whether they had a pension or allowance from public funds e.g., Civil Service or Army pension

The registrar will give you:

- A Certificate for Burial or Cremation for the funeral director, which is known as the "green form". This is free of charge
- A Certificate of Registration of Death for social security purposes
- If you wish to purchase it, a Death Certificate. You may need several copies for the will, banks/building societies, insurance companies etc. It is cheaper to buy copies within a month of someone's death
- Leaflets about benefits and tax

It is important to check the register carefully before signing. It is a legal record which is difficult to correct at a later date.

Cardiff Register Office

City Hall

Cathays Park

Cardiff CF10 3ND

Telephone: 029 2087 1680

Opening hours are 9.00 am to 4.30 pm

Barry Register Office

Civic Offices

Holton Road

Barry CF63 4RU

Email: [RegistrationService@valeofglamorgan.gov.uk](mailto:RegistrationService@valeofglamorgan.gov.uk)

Telephone: 01446 700111

Open Mon-Fri, 9.00am-13.00pm, 14.00am-16.00pm

Penarth Register Office

West House

Stanwell Road

Penarth CF64 2YG

Telephone: (029) 2070 7862

Open Mon-Fri, 9.00am-13.00pm, 14.00am-16.00pm

[Paying for the funeral](#)

Before paying for the funeral find out if the person you cared for had:

- prepayment funeral plan
- pension scheme/insurance plan which included funeral costs
- National Savings (these can be released to pay for costs)
- membership to an association that pays money when a member dies

Funerals can be expensive, so work out how much you can spend before you start the arrangements. The funeral can be paid out of the estate - this is the money, property and possessions of the person who has died. If it takes a while for their estate to be sorted out, banks and building societies will often release money to pay for funeral expenses.

### Funeral Payment

Depending on your circumstances, you may be able to get help to pay for the funeral costs. You can get help if you get certain benefits including Income Support, Income-based Jobseeker's Allowance, Pension Credit, Housing Benefit, Council Tax Benefit, Child Tax Credit or Working Tax Credit. You can apply up to 3 months after the date of the funeral. For more information contact Job Centre Plus on [0345 604 3719](tel:03456043719)

If you can't get help with paying for the funeral, you can ask the Funeral Director if it is possible to pay in instalments.

### Cremation and Burial Services

In Cardiff there is management and maintenance of a Crematorium and nine Cemeteries throughout the city. For advice on and options for internments or cremation for Cardiff City contact the department below:

Thornhill Reception  
Bereavement Services Division Cardiff County Council  
Thornhill Road  
Llanishen

Cardiff CF14 9UA Telephone: 029 2054 4820

Email: [ThornhillReception@cardiff.gov.uk](mailto:ThornhillReception@cardiff.gov.uk)

Or for the Vale, contact:

The Cardiff and Glamorgan Memorial Park and Crematorium  
Memorial Park  
Port Road East  
Barry  
Vale of Glamorgan CF62 9PX

Telephone: 01446 724040

Alternatively, for both Cardiff and the Vale of Glamorgan, contact a Funeral Director for advice and services. [Yell.com](http://Yell.com) have plenty listed.

## Legal /Protection Aspects of Caring

This section is designed to explain some of the legal and protection issues that may arise while you are caring for someone. To the best of our knowledge the information contained is correct. If you have any queries or questions about these issues it would be advisable to contact your named social worker.

The Social Services and Well-being (Wales) Act 2014 became Law on 1st May 2014 and was implemented from 6th April 2016 and is intended to transform the way social services are delivered.

The Act repeals the majority of previous community care legislation and is a new law that will affect:

- Adults
- Children
- Carers

- Health and social care professionals

This service provides information, advice and assistance (IAA). This enables people to access the right help at the right time to meet their individual situation. To support you to achieve well-being, you will make decisions about your care in partnership with professionals. To help you to do so, you will have easy access to information and advice about what is available in your area.

Carers, including young carers, are defined as people who provide or intend to provide care for an adult or a disabled child. Carers are now legally entitled to a carer's assessment regardless of the amount or type of care you provide, your financial means or the level of support you may need.

A new assessment process for care and support will be based on what matters to you as an individual. It will consider your personal strengths and the support available to you from your family, friends and others in the community.

More information about the Act can be found at <http://www.ccwales.org.uk/learning-resources-1/carers-and-the-act/>

## Guardianship

The purpose of guardianship is to enable patients with mental health needs to receive community care within an authoritative framework. That framework should provide a minimum of constraint to allow the patient to achieve as independent a life as possible within the community, and lessen the risk of hospital re-admission.

The guardian has the power to require the person subject to the order to reside at a specified place, to attend specific places at specific times for the purpose of medical treatment, occupation, education or training, and to give access to the place where that person resides to any medical practitioner, Approved Mental Health Professional or other person specified by the guardian.

As such, with the exception of the power to take and retake a patient to the place they are required to live, the powers of the guardian are not capable of enforcement but rely on the co-operation of the patient and can be seen as an effective community resource and form of aftercare.

Guardianship can be applied to persons over sixteen years old who have a mental disorder, and where it is necessary in the interests of the welfare of the person and for the protection of others.

The guardian can be a local authority or a nominated private person. Application is made by the nearest relative or an Approved Mental Health Professional with the support of two medical recommendations.

The patient must be told about the Independent Mental Health Advocacy (IMHA) service and can be assisted to access IMHA.

### Healthcare Inspectorate Wales (HIW) [s.120-121]

HIW is independent of the Hospital and carries out inspections of healthcare facilities, including the use of the Mental Health Act 1983 and the Deprivation of Liberty Safeguards. It carries out functions on behalf of the National Assembly for Wales. HIW uses a variety of people to carry out its work, including doctors, lawyers, nurses, social workers, psychologists and other specialists as well as interested lay persons. HIW reviews the operation of the Mental Health Act and the way its powers of detention and consent to treatment provisions are exercised, and also ensures the rights of detained patients are being upheld. HIW visits all hospitals and units where patients are detained under the Act. They can interview patients, examine legal documentation and they also monitor deaths of detained patients.

HIW also keep under review the operation of the Deprivation of Liberty Safeguards procedures. These only apply in hospitals and care homes.

### Mental Capacity Act 2005

The Mental Capacity Act 2005 provides the legal framework for acting and making decisions on behalf of individuals who lack the mental capacity to make particular decisions for themselves. Everyone working with and/or caring for an adult (aged 16 years and over) who may lack capacity to make specific decisions must comply with this Act when making decisions or acting for that person. The same rules apply whether the decisions are life-changing events or everyday matters.

Before making an application under the Mental Health Act (MHA), doctors and Approved Mental Health Professionals should consider whether they could achieve their aims safely and effectively by using the Mental Capacity Act (MCA) instead. If a doctor believes that they can safely assess or treat a person under the MCA, they do not need to consider using the MHA.

Sometimes it will be necessary to consider using the MHA rather than the MCA because it is not possible to give the person the care or treatment they need under the MCA. But it is important to remember that a person cannot be treated under the MHA unless they meet the criteria for being detained. For example, compulsory treatment under the MHA is not an option if the patient's mental disorder does not justify detention in hospital, or the patient needs treatment only for a physical illness or disability.

There is no reason to assume a person lacks capacity to make their own decisions just because they are subject (under the MHA) to detention, guardianship or supervised community treatment but people who lack capacity to make specific decisions are still protected by the MCA even if they are subject to the MHA (this includes people who are subject to the MHA as a result of court proceedings).

Subject to certain conditions and safeguards, the MHA allows health professionals to give patients, who are liable to be detained, treatment for mental disorders without their consent - whether or not they have the capacity to give that consent. But health professionals treating people for mental disorder under the MHA cannot simply ignore a person's capacity to consent to treatment. As a matter of good practice (and in some

cases in order to comply with the MHA) they will always need to assess and record whether patients have capacity to consent to treatment, and if so, whether they have consented to or refused that treatment.

### Power of Attorney

Sometimes one person will want to give another person authority to make a decision on their behalf. A power of attorney is a legal document that allows them to do so.

Under a power of attorney, the chosen person (the attorney or donee) can make decisions that are as valid as one made by the person (the donor).

Before the Enduring Powers of Attorney Act 1985, every power of attorney automatically became invalid as soon as the donor lacked the capacity to make their own decision. But that Act introduced the Enduring Power of Attorney (EPA). An EPA allows an attorney to make decisions about property and financial affairs even if the donor lacks capacity to manage their own affairs.

The Mental Capacity Act replaced the EPA with the Lasting Power of Attorney (LPA). It also increased the range of decisions that people can authorise others to make on their behalf. As well as property and affairs (including financial matters), LPAs can also be made to cover personal welfare (including healthcare and consent to medical treatment) for people who lack capacity to make such decisions for themselves. The donor can choose one person or several to make different kinds of decisions.

Since the Mental Capacity Act came into force in 2007, it is not possible to make new EPAs, although existing EPAs can continue to be used. An EPA must be registered with the Office of the Public Guardian when the attorney thinks the donor lacks capacity to manage their own affairs, or is beginning to lack capacity to do so.

### Lasting Power of Attorney

Only adults aged 18 or over can make an LPA, and they can only

make an LPA if they have the capacity to do so.

## 1. Personal welfare LPAs

LPAs can be used to appoint attorneys to make decisions about personal welfare, which can include healthcare and medical treatment decisions. The standard form for personal welfare LPAs allows attorneys to make decisions about anything that relates to the donor's personal welfare. But donors can add restrictions or conditions to areas where they would not wish the attorney to have the power to act. A personal welfare LPA can only be used at a time when the donor lacks capacity to make a specific welfare decision.

A personal welfare LPA allows attorneys to make decisions to accept or refuse healthcare or treatment unless the donor has stated clearly in the LPA that they do not want the attorney to make these decisions. An attorney can only consent to or refuse life-sustaining treatment on behalf of the donor if, when making the LPA, the donor has specifically stated in the LPA document that they want the attorney to have this authority.

## 2. Property and affairs LPAs

A donor can make an LPA giving an attorney the right to make decisions about property and affairs (including financial matters). Unless the donor states otherwise, once the LPA is registered, the attorney is allowed to make all decisions about the donor's property and affairs even if the donor still has capacity to make the decisions for themselves. In this situation, the LPA will continue to apply when the donor no longer has capacity.

Alternatively a donor can state in the LPA document that the LPA should only apply when they lack capacity to make a relevant decision. The fact that someone has made a property and affairs LPA does not mean that they cannot continue to carry out financial transactions for themselves. The donor may have full capacity, but perhaps anticipates that they may lack capacity at some future time. Or they may have fluctuating or partial capacity and therefore be able to make some decisions (or at some times), but need an attorney to make others (or

at other times). The attorney should allow and encourage the donor to do as much as possible, and should only act when the donor asks them to or to make those decisions the donor lacks capacity to make. However, in other cases, the donor may wish to hand over responsibility for all decisions to the attorney, even those they still have capacity to make.

If a donor does not restrict decisions the attorney can make, the attorney will be able to decide on any or all of the person's property and financial affairs.

### Court of Protection

The Court of Protection is a specialist court to deal with decision-making for adults (and children in a few cases) who may lack capacity to make specific decisions for themselves.

The Court of Protection is a superior court of record and is able to establish precedent (it can set examples for future cases) and build up expertise in all issues related to lack of capacity. It has the same powers, rights, privileges and authority as the High Court. There will usually be a fee for applications to the court.

In cases of serious dispute, where there is no other way of finding a solution or when the authority of the court is needed in order to make a particular decision or take a particular action, the court can be asked to make a decision to settle the matter using its powers. However, if there is a need for ongoing decision-making powers and there is no relevant power of attorney, the court may appoint a deputy to make future decisions. It will also state what decisions the deputy has the authority to make on the person's behalf. Deputies are only very rarely granted powers to make personal welfare decisions for the person - most deputies are appointed for property and affairs decisions.

It is for the court to decide who to appoint as a deputy. Different skills may be required depending on whether the deputy's decisions will be about a person's welfare (including healthcare), their finances or both. The court will decide whether the proposed deputy is reliable and trustworthy and has an

appropriate level of skill and competence to carry out the necessary tasks.

Receivers appointed by the court before the Mental Capacity Act are treated as deputies and keep their existing powers and duties.

### Appointeeship

Appointeeship is where a person acts on behalf of another to receive their benefits and use the money to pay household expenses such as bills, food and personal items.

The Department for Work and Pensions acting on behalf of the Secretary of State can authorise someone else to act on a person's behalf if the person is over 18 and incapable of managing their own affairs. This is called an appointment to act and the person or organisation appointed to act is called an appointee. An appointment to act is made under Regulation 33 of the Claims and Payments Regulations 1987.

At any one time, there must only be one appointee acting on the person's behalf for all benefits administered by the Department for Work and Pensions.

An appointee can be an individual such as a relative or friend or an organisation such as a local authority or a firm of solicitors. An appointee would be responsible for everything to do with benefits such as completing and signing forms or reporting changes of circumstances.

An appointee is only able to manage benefits such as state pension, pension credit, housing and council tax benefit. An appointee is not able to manage bank accounts or private pensions.

### Deprivation of Liberty Safeguards (DoLS)

These provide a lawful means of depriving a person of 18 years or over, who has a mental disorder and lacks capacity to make decisions about how they are to be cared for, of their liberty, if this is in the best interests of the person in order to keep them

safe. DoLS only applies to people in hospitals or care homes.

For further information about Mental Capacity Act, including DoLS, please visit [www.mentalcapacityact.wales.nhs.uk](http://www.mentalcapacityact.wales.nhs.uk)

## Mental Health Act 1983

### A brief summary

The principal legislation which governs the formal detention and care of “mentally disordered” people in hospital in England and Wales, is the Mental Health Act 1983.

On 3rd November 2008, a number of changes were made to the 1983 Act by the Mental Health Act 2007: these are reflected in what follows.

The 8 guiding principles of the 1983 Act are grouped under the following headings - empowerment, equity, effectiveness and efficiency. Further details can be found in the Mental Health Act 1983 Code of Practice for Wales.

### The Language used in the Mental Health Act

The term “mental disorder” which is used throughout the Act means “any disorder or disability of the mind”. An “Approved Mental Health Professional” is a professional who has undertaken training and acts on behalf of the local authority, for the purposes of the Mental Health Act. A “Responsible Clinician” is a professional who has undertaken training and been approved to act as such, who is in charge of the care and treatment of a person detained under the Act.

### Admission to Hospital

It is the intention of the Act that, wherever possible, people are admitted to hospital “informally”, i.e. without using the formal powers of the Act [Section 131]. In the event of a person being unwilling to go into hospital it may be possible to compulsorily detain them for assessment and/or treatment in the interests of

their own health or safety, or for the protection of others. The grounds for compulsory admission, assessment or treatment are that the person is suffering from a mental disorder of a nature or degree that warrants his/her detention in hospital for assessment and/or treatment and that such admission is necessary in the interests of the health and safety of the person and/or the protection of other people. Where the detention in hospital is for treatment, there must be appropriate medical treatment available. The Approved Mental Health Professional has responsibility for co-ordinating the process of Mental Health Act assessment and must be satisfied that compulsory detention is the most appropriate way of providing care and medical treatment. In reaching this decision they will interview the patient in a 'suitable manner', which should take into account language and cultural needs of the individual, consider the social circumstances of the case, take account of any previous psychiatric history and consider alternative resources to detention in hospital. The application by the Approved Mental Health Professional must be supported by two medical recommendations.

### The patient in hospital

In principle, the informal psychiatric patient is in a similar legal position to the patient in a general hospital. However, in an emergency, if it becomes necessary to undertake a Mental Health Act assessment on an informal inpatient, the Act allows for a doctor to hold the patient for a period of up to 72 hours to give time for completion of Section 2 or 3. It is also possible for a nurse of the "prescribed class" to hold a patient for period of up to 6 hours to enable a patient to be examined by a doctor. It is the responsibility of the Hospital Managers to make sure that a detained patient receives information about the powers of detention, their right of appeal to the Hospital Managers, and to the Mental Health Review Tribunal, their right to access an Independent Mental Health Advocate and their right to refuse certain types of treatment.

In-patients who are receiving treatment for mental health issues (whether they are on a mental health ward or not) are entitled to be given information about Independent Mental Health

Advocacy (IMHA) and can be assisted to access the IMHA service.

### Consent to treatment

For patients detained under the Mental Health Act 1983, Part IV of the Act goes to some lengths to ensure that patients comprehend the nature of planned treatment programmes. Drug treatment for mental disorder may be given to a patient with or without the patient's consent during the first three months of detention in hospital. (This does not apply to medical treatment for physical illness - this is governed by the Mental Capacity Act 2005.) At the end of the 3 month period, the patient's consent or a second opinion will be required to continue with further administration of treatment. A patient who has capacity cannot be given ECT [Electro Convulsive Therapy] if s/he does not want it, even if s/he is detained under the Mental Health Act. These safeguards can be set aside where the need for treatment is both serious and urgent - for example, to save a patient's life.

### Mental Health Review Tribunals

The Mental Health Review Tribunal is a part of the Court system and is responsible for hearing patient appeals against detention.

Tribunal panel members consist of a legal member, a medical member, and a lay member. All have experience considered suitable by the Lord Chancellor.

Patients detained under Section 2, 3, 7 [Guardianship] and 17 [Supervised Community Treatment] have the right of appeal to a Tribunal as do patients detained under hospital orders. Appeals can be made by the patient or their nearest relative. Information on how this can be done may be obtained from the Hospital Managers, or from staff on the hospital ward where the patient is detained.

All detained patients who appeal to the Tribunal are entitled to free legal representation. The Law Society issues a list of solicitors and their employees who are competent to represent patients at a Mental Health Review Tribunal.

## Discharge from Hospital

Informal patients may discharge themselves at any time. Patients detained under compulsory orders may be discharged when their 'Section' expires, or prior to this at the discretion of the Responsible Clinician. The patient's nearest relative may apply to discharge a detained patient by giving 72 hours notice in writing to the Hospital Managers. This notice can be overruled by the Responsible Clinician, if, in their opinion the patient, if discharged, would be likely to act in a manner dangerous to themselves or others.

## Supervised Community Treatment

Patients who have been detained in hospital for treatment (mainly under Section 3) can, if their Responsible Clinician and Approved Mental Health Professional agree, be placed on a Community Treatment Order. This allows the patient to live in the community subject to certain conditions. If the Responsible Clinician thinks that the patient's mental health is deteriorating and that they need treatment in hospital, then the Responsible Clinician can recall the patient to hospital for up to 72 hours. Patients on Supervised Community Treatment can ask their Responsible Clinician, the Hospital Managers and the Mental Health Review Tribunal to discharge them from this section. The patient's nearest relative may also ask for the patient's discharge. Patients also have a right to access the Independent Mental Health Advocacy service, if they wish.

## After Care [s.117]

It is the joint responsibility of both the Health Service and the Local Authority to provide aftercare for discharged patients previously detained under a treatment [not assessment] order. The form and extent of this aftercare is not defined by the legislation, but should be based on the patient's needs. The patient and/or their family cannot be charged for aftercare given under section 117. Aftercare should continue to be provided for as long as the patient needs it and can only end with the joint agreement of both the Health and the Local Authority.

Though not a legal requirement, where some care input from a voluntary organisation [e.g., voluntary housing agency] is an element of the S117 discharge plan, that organisation should be included in discussions of an individual's aftercare needs.

### Mental Health Act 1983 Code of Practice for Wales

This provides guidance to those people who operate the Mental Health Act and should be followed unless there are good reasons not to do so.

The Code can be viewed on hospital wards and Mental Health Teams also have copies.

For further information, guidance, etc about the Mental Health Act, please visit [www.wales.nhs.uk/mentalhealthact1983](http://www.wales.nhs.uk/mentalhealthact1983)

### Protection of Vulnerable Adults from Abuse and Inappropriate Care

For several years, since the implementation of the Welsh Assembly Government guidance document 'In Safe Hands (2000)' and the development of the 'South Wales Policy and Procedures for the Protection of Vulnerable Adults from Abuse and Inappropriate Care (2001)' Cardiff and Vale Local Health Board, in partnership with the Local Authorities, Police and Care and Social Services Standards Inspectorate for Wales partners, has responded to cases of alleged abuse/inappropriate care in a systematic way.

The aim of the joint Policy is to ensure that any abuse or inappropriate care when identified or reported is thoroughly investigated and plans developed to assure the vulnerable adult's safety. Following a referral, partner agencies will work together to consider the nature of the alleged abuse/inappropriate care and decide the best response to reduce or eliminate the risk of further significant harm from occurring. As well as addressing more serious cases of abuse via the criminal justice system, the POVA Policy aims to support care- giving situations which are under pressure and where stress or exhaustion may play a factor in 'end of tether' abuse. It is also intended to be used to help eliminate poor practice from within

service settings, and to this end staff across the agencies are receiving training to become more 'POVA aware'.

If you are concerned that a vulnerable adult is being abused or subjected to inappropriate care, it is important that you act quickly in order that they can be protected from further significant harm. You can make a referral in several ways. Firstly, by accessing a VA1 referral form from the South Wales Adult Protection Forum website ([www.swapforum.org](http://www.swapforum.org)) and sending this to your nearest Local Authority Social Services Mental Health Services for Older People Community Team (see the Nexus Directory) and/or by discussing your concern with the lead officer within that team with POVA Designated Lead Manager responsibility. Next, the following personnel can be contacted for advice and support and to discuss your referral.

Cardiff City Council Protection of Vulnerable Adults Team /  
Safeguarding Adults Team  
Telephone: 029 2053 6436

Vale of Glamorgan Protection of Vulnerable Adults Team /  
Safeguarding Adults Team  
Telephone: 01446 704812 / 01446 704299

**Note: If you think a vulnerable adult is being seriously harmed or that a criminal act has been committed you should call the Police without delay.**

Telephone: 101 or 999.

# Notes





# Are you Involved?

**38**

# CARER AND USER INVOLVEMENT IN MENTAL HEALTH SERVICES FOR OLDER PEOPLE.WHAT IS CARER AND SERVICE USER INVOLVEMENT?

The Involvement of patients and their carers in the delivery and planning of their treatment is a statutory requirement under section 1 of the Health and Social Care Act 2001, and from 1st March 2007 under section 183 of the NHS (Wales) Act 2006. The aim of this involvement is to make treatment more appropriate to an individual patient's needs.

Patients and carers are recognised as experts in their own experience, and taking their views into consideration should lead to improvements in the quality of their care. This involvement of patients and carers will help to make them feel more valued, increase confidence and raise self esteem.

This involvement may not happen automatically, can be achieved by contacting Nexus and by attending the various events which are arranged to provide information about services. In addition it is useful to join groups which cater for the well being of patients and carers.

If you would like to become more involved, contact Helen Joy or Matthew Salisbury of Nexus. You may wish to be included on the Nexus database and receive our two monthly magazine called Involvement News.

Nexus,  
CAVAMH Cardiff and Vale Action for Mental Health  
84 Glebe Street  
Penarth  
Vale of Glamorgan CF64 1EF  
Telephone 029 2022 2000 Email [nexus@cavamh.org.uk](mailto:nexus@cavamh.org.uk).  
[www.cavamh.org.uk](http://www.cavamh.org.uk).

# Notes



# **Booklist - Useful Reading & Useful Websites**

**42**

'After the Rehearsal' by Jill Grey.

Jill's clear message is that while dementia changes so much in relationships people can still find ways to enjoy life with the support of friends, family and services.

'The Simplicity of Dementia: A Guide for Family and Carers' by Huub Buijssen

This book offers an accessible and sympathetic introduction for relatives, carers and professionals looking after or training to work with people with dementia.

'Elizabeth is Missing' by Emma Healey

Despite Maud's growing anxiety about Elizabeth's welfare, no-one takes her concerns seriously. Armed with only an overwhelming feeling that Elizabeth needs her help, Maud resolves to discover the truth no matter what it takes.

'Care to Communicate: Helping the Older Person with Dementia' Jennie Powell, Eve Morris (Illustrator)

Showing ways of improving communication between the carer and the person they care for. A Really useful book for carers of people with dementia or therapists wanting to give carers advice and ideas.

36 Hour Day: Family Guide to Caring for Persons with Alzheimer's Disease, Related Dementing Illnesses and Memory Loss in Later Life (Johns Hopkins Health Book S.) Paul R. McHugh (Foreword), Nancy L. Mace, Peter V. Rabins  
A guide for families who are giving care to people with Alzheimer's or other dementing illnesses.

Dementia: Alzheimer's and Other Dementias at Your Fingertips.  
Harry Cayton, Nori Graham, James Warner

A practical guide giving comprehensive, medically accurate information on Alzheimer's disease and other forms of dementia in an easy to understand format. HIGHLY COMMENDED IN POPULAR MEDICINE CATEGORY AT THE BMA MEDICAL BOOK AWARDS 2015

Staying Sane: When You Care for Someone with Chronic Illness - Guide for Caregivers. Pohl, Melvin I. Deniston, J. Kay

Providing ideas to help caregivers cope with the ups and downs of long-term illness, enabling them to care for others without losing themselves in the process.

**Living in the Labyrinth: A Personal Journey Through the Maze of Alzheimer's**

Diana Friel McGowin

A personal journey through the maze of Alzheimer's.

**Living Longer Depression Free: A Family Guide to Recognizing, Treating and Preventing Depression in Later Life.** by Mark D.

Miller, Charles F. Reynolds, Charles F. Reynolds (III)

A discussion of the different types of depression, their causes and symptoms. The authors then describe how doctors evaluate depression; present the treatment options available to patients today, including psychotherapy, medication and alternative treatments; and offer strategies for achieving long-term mental well-being.

**To Be Old and Sad.** Nathan Billig

Identifying the symptoms of depression, describes treatments, looks at possible causes, and tells how to help elderly people who may be depressed.

**Is the Cooker Turned Off?: Caring for an Older Person with Failing Memory** Josephine Woolf, Michael Woolf

This book is essential reading for any carer of someone with failing memory.

**Dancing with Dementia: My Story of Living Positively with Dementia** Christine Bryden

Christine Bryden was a top civil servant and single mother of three when she was diagnosed with dementia at the age of 46.

**Now Where Did I Put My Glasses? Caring for Your Parents - A Practical and Emotional Lifeline (Paperback)** by Jackie Highe (Author)

A very readable book on a very difficult subject with good advice about keeping the communication channels open.

**A Funny Old World and Beside the Seaside (Hardbacks)** by Pictures to Share Community Interest Company (a not for profit

social enterprise that produces visual resources for people with dementia)

Large picture books aimed at stimulating conversation amongst carers and people with dementia.

*How You Can Survive When They're Depressed: Living and Coping with Depression Fallout* (Paperback) by Anne Sheffield (Author)

This book provides much-needed support for people experiencing depression. Well worth reading.

*Caring for Loved Ones in Old Age: Being a Carer, Paying for Care and Choosing a Care Home: Care for the Elderly* (Paperback) by Counsel And Care (Author)

This book explains what help carers, and those they look after, can expect from the state, and other self-funded options available.

*Past Caring* (Paperback) by Audrey Jenkinson (Author)

In *Past Caring*, the writer describes how she tried to cope with her parents' deaths and recalls the void she felt at the time. It also includes a twelve-step recovery guide for past carers.

*Losing Clive to Younger Onset Dementia: One Family's Story* (Paperback) by Helen Beaumont (Author)

This story is for the family and friends of people with the condition, for the people themselves, and the professionals working with them.

*The Wilderness* (Paperback) by Samantha Harvey (author)

A compelling look at the aging process, and a powerful story of one man's attempt to make sense of his life even as he loses his grip on reality.

*Remind Me Who I Am, Again* (Paperback) by Linda Grant (author)

In 1193 Linda Grant's mother, Rose, was diagnosed with multi-infarct dementia. With Rose's memory deteriorating, a whole world was in the process of being lost. In this work she looks at the question of identity, memory and autonomy that dementia raises.

## No More Apples for Tom (Paperback) by Marianne Rumens (author)

Marianne Rumens husband, Tom, suffered from the rare form of dementia known as Pick's Disease (or Fronto Temporal Dementia). This book describes their life together.

### Useful Websites

There are other websites which may be useful.

#### [www.cardiff.gov.uk](http://www.cardiff.gov.uk)

The official website for Cardiff County Council providing all the information you may need and contact details.

#### [www.valeofglamorgan.gov.uk](http://www.valeofglamorgan.gov.uk)

The official website for Vale of Glamorgan County Council providing all the information you may need and contact details.

#### [www.cardiffandvaleuhb.wales.nhs.uk](http://www.cardiffandvaleuhb.wales.nhs.uk)

A comprehensive website providing information on services provided by the Cardiff and Vale University Health Board. Cardiff and Vale Unitary Health Board is the largest UHB in Wales and one of the largest in the UK. It provides day to day health services to a population of around 500,000 people living in Cardiff and the Vale of Glamorgan.

#### [www.direct.gov.uk](http://www.direct.gov.uk)

Directgov is the place to turn for the widest range of government information and services. As well as government departments, the site links through to relevant third parties which can offer additional trusted advice and support.

#### [www.carers.gov.uk](http://www.carers.gov.uk)

This website is part of making good the Government's commitment in 'Caring about Carers' to ensure that Government Departments provide on the Internet details of the services or benefits affecting carers. They provide all the facts as well as links to related websites.

[www.cardiffandvaleuhb.wales.nhs.uk/caring-for-someone-with-dementia](http://www.cardiffandvaleuhb.wales.nhs.uk/caring-for-someone-with-dementia)

Caring for someone with dementia is often helped by receiving education, both in terms of knowledge and skills for this role. Find out more about education opportunities for those caring for people with dementia in Cardiff and the Vale of Glamorgan.

## Notes

# Notes



# Notes





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