

Getting a second opinion, Legal Affairs and Confidentiality

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Getting a second opinion

It can be very difficult for all concerned if there is confusion about a person's diagnosis – for example, it makes it difficult to get information which you need to support the person that you care for and give them the best possible chance of recovery. It is important to know what might be helpful to recovery, e.g. avoiding stress or too much alcohol. If there is no clear diagnosis it can sometimes be difficult to make a successful application for benefits such as Disability Living Allowance. You might feel that the person for whom you care for needs a review or that a second opinion from a doctor specialising in severe mental illness would be of use.

Do I have the right to a second opinion?

The National Patients Charter on Mental Health Services says that “you have the right to be referred for a second opinion if you and your GP agree this is a good idea”.

How do I get a second opinion?

Initially, start by asking the psychiatrist or GP. If you would like more information, you can contact:

LAMP – Leicestershire Action for Mental Health: Advocacy and Information - Tel: 0116 255 6286
65 Regent Road
Leicester
LE1 6YF

Rethink – Severe Mental Illness: Advice Line - Tel: 0845 456 0455
89 Albert Embankment
London
SE1 7TP

Legal Affairs

There are a number of ways in which a carer can help a service user manage their finances and legal affairs:

Legal appointee (for service users in receipt of benefits)

If your relative is finding it difficult to deal with the benefits system, you may be able to claim their benefits on their behalf. This is called being an ‘appointee’.

If you want to become an appointee you need to notify your relative's local Department of Work and Pensions (DWP) office and fill in form BF56. The DWP may say they have to visit you and your relative to decide whether to make you an appointee.

You can also contact the local authority with regard to housing benefit and /or council tax benefit claims. If the local authority has made you an appointee, you should be able to provide evidence of this to the DWP so they can also make you an appointee for other benefits, and vice versa.

Court of Protection

If you have a family member, friend or neighbour who you think is having difficulties making decisions about their finance and property or their personal welfare, then they may need someone to be appointed to make these decisions on their behalf. The court of Protection deals with these situations. It makes decisions, and also appoints other people (called deputies) to make decisions, for people who lack the capacity to do this for themselves. These decisions are related to their property, financial affairs, health and personal welfare.

The Nearest Relative can make the initial application, as can the doctor, social worker or solicitor. Legal aid is not available for Court of Protection, but in cases of hardship the court can refund or postpone the fees.

Applications can be made by a solicitor or directly to:

Court of Protection (COP)

PO Box 70185

First Avenue House

42-49 High Holborn

London

WC1A 9JA

<https://www.gov.uk/courts-tribunals/court-of-protection>

Email: courtofprotectionenquiries@hmcts.gsi.gov.uk

EnquiriesTel: 0300 456 4600

Power Of Attorney/Deputyship

This can be used by a person who wishes to place their affairs "in the hands of a friend or adviser". It enables someone to make legally binding decisions for the service user. Some people will hand over their affairs completely, or there can be specific conditions or areas that are excluded.

An opportunity will be given by the court for other relatives to object to the power of attorney being given, if they wish. The person granting the power of attorney to their friend/advisor must be judged capable of giving consent in the first instance.

You can make an application yourself, or made through a solicitor, for more information contact the Office of the Public Guardian (OPG)

PO Box 16185

Birmingham

B2 2WH

www.gov.uk/government/organisations/office-of-the-public-guardian

Email: customerservices@publicguardian.gsi.gov.uk

Tel: 0300 456 0300

Fax: 0870 739 5780

Confidentiality - please also see leaflets 'Carers and confidentiality in mental health' and 'checklist for carers of people with mental health problems' contained within this pack

As the main carer, you can be involved in discussions and arrangements to meet your relative/friend's care and/or treatment needs – as long as they give their consent.

Everyone working for the National Health Service and Social Services Departments has a legal duty to keep information about service users confidential. However staff should acknowledge how useful it is for everyone if they work in partnership with you. This is particularly true, for example, when the service user has been home for weekend leave, or to provide information about how they behave when well, or about cultural needs with which staff may be unfamiliar. If you are going to be caring for the person after their discharge, it is particularly important for you to understand what is needed and planned so that you can help the service user to attend appointments, take medication, stick to their care plan etc.

Sometimes the service user will refuse to give their consent for information to be shared with you, and except where there is an identified risk to themselves or others, you will have to accept this.

It is important to carry on being as supportive as you can. It is possible, if you are extremely worried, to let the staff know your concerns (by phone or letter) – as long as you are not asking them for information, this should not create any problems. It is worth bearing in mind that some staff will mention to the service user that you have contacted them.

If you need support in getting your views and concerns over, then consider using a Carers Advocate - see 'Where to get Help leaflet'.