

Part 4 of the Mental Health Act 2001 - Consent to treatment - Guidance for approved centres

The Inspector must assess an approved centre's compliance with Part 4 of the Mental Health Act 2001, as amended, (the 2001 Act) as part of each annual regulatory inspection. There are specific requirements in Part 4 of the 2001 Act in relation to medication administered to involuntary patients for a continuous period of 3 months.

For these patients there are two questions that must be assessed in order to continue to administer medication:

- Does the patient have the ability to understand the nature, purpose and likely effects of the proposed treatment?
- Is the patient willing to consent?

All documentation set out below must be made available to the Mental Health Commission on request, or to the Inspector on inspection.

These requirements relate to medications administered for the purposes of ameliorating the patient's mental disorder and do not relate to medication administered for general health purposes.

Ability to consent

Following the administration of medication for a continuous period of 3 months, the patient's responsible consultant psychiatrist must assess their patient's ability to consent to the treatment; this includes an assessment of the patient's ability to understand the nature, purpose and likely effects of the proposed treatment.

There must be documented evidence that the responsible consultant psychiatrist has undertaken this assessment. This may be evidenced by a capacity assessment, or equivalent.

Unable to consent

Where a patient is assessed as being **unable** to consent to the continued administration of medication, the treatment may be approved and authorised by two consultant psychiatrists pursuant to the procedure set out in *Form 17: Administration of Medicine for more than 3 Months Involuntary Patient (Adult) – Unable to Consent*.

Written consent

Where a patient is assessed as being able to understand the nature, purpose and likely effects and is **willing** to consent to continue taking the medication, this must be recorded in a written consent form. The consent form must contain the following:

- The name of the medication(s) prescribed;
- Confirmation of the assessment of the patient's ability to understand the nature, purpose and likely effects of the medication(s);
- Details of the discussion with the patient, including:
 - the nature and purpose of the medication(s);
 - the effects of the medications(s) including any risks and benefits; and
 - any views expressed by the patient;
- Any supports provided to the patient in relation to the discussion and their decision-making.

Unwilling to consent

Where a patient is assessed as being able to understand the nature, purpose and likely effects, but is **unwilling** to consent to the continued administration of the medication(s), the treatment must be discontinued immediately, even if the responsible consultant psychiatrist considers that the treatment is in the best interests of the patient. This must be recorded on the clinical file.

Children admitted under Section 25 of the 2001 Act

A child admitted under Section 25 of the 2001 Act may be administered medication with or without consent for the purposes of ameliorating his or her mental disorder for a period of three months.

On the expiration of the three month period the administration of medication may only be continued if it is approved and authorised by two consultant psychiatrists pursuant to the procedure set out in *Form 18: Treatment without Consent – Administration of Medicine for more than 3 Months (Child)*.

References

For further information, please refer to the Mental Health Act 2001 as amended, in particular: Section 52(d), Section 56, Section 60 and Section 61 (see Appendix 1).

Appendix 1: Mental Health Act 2001 ¹

Section	Citation
Section 52(d)	When making an inspection under section 51, the Inspector shall ascertain whether any regulations made under section 66, any rules made under sections 59 and 69 and the provisions of Part 4 are being complied with.
Section 56	<p>In this Part “consent”, in relation to a patient, means consent obtained freely without threats or inducements, where—</p> <ul style="list-style-type: none"> (a) the consultant psychiatrist responsible for the care and treatment of the patient is satisfied that the patient is capable of understanding the nature, purpose and likely effects of the proposed treatment; and (b) the consultant psychiatrist has given the patient adequate information, in a form and language that the patient can understand, on the nature, purpose and likely effects of the proposed treatment.
Section 60	<p>Where medicine has been administered to a patient for the purposes of ameliorating his or her mental disorder for a continuous period of 3 months, the administration of that medicine shall not be continued unless either—</p> <ul style="list-style-type: none"> (a) the patient gives his or her consent in writing to the continued administration of that medicine, or (b) where the patient is unable to give such consent— <ul style="list-style-type: none"> (i) the continued administration of that medicine is approved by the consultant psychiatrist responsible for the care and treatment of the patient, and (ii) the continued administration of that medicine is authorised (in a form specified by the Commission) by another consultant psychiatrist following referral of the matter to him or her by the first-mentioned psychiatrist [...]"
Section 61	<p>Where medicine has been administered to a child in respect of whom an order under section 25 is in force for the purposes of ameliorating his or her mental disorder for a continuous period of 3 months, the administration of that medicine shall not be continued unless either—</p> <ul style="list-style-type: none"> (a) the continued administration of that medicine is approved by the consultant psychiatrist responsible for the care and treatment of the child, and (b) the continued administration of that medicine is authorised (in a form specified by the Commission) by another consultant psychiatrist, following referral of the matter to him or her by the first-mentioned psychiatrist [...]"

¹ Refers to the Mental Health Act 2001, which includes all legislative amendments, from 2001 to date.