# Experiences of the 'Nearest Relative' provisions in the compulsory detention of people under the Mental Health Act: a rapid systematic review

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## Scientific summary

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# Scientific summary

## Background

Under the Mental Health Act 1983 (MHA 1983), individuals with severe mental health difficulties may be detained involuntarily for assessment and/or treatment if they are considered at risk of harming themselves or other people. When a person is admitted to hospital for a period of assessment and/or treatment involuntarily, the MHA 1983 states that they are eligible to receive support from an assigned 'Nearest Relative' (NR). The NR is a statutory role within these processes of care and decision-making. The NR has several rights and responsibilities, including the power to apply for the detention or discharge of the service user, and receiving confidential and potentially sensitive information about the service user's care.

The NR is an important role; however, issues over the identification, displacement and powers of the NR have been raised. Under the MHA 1983, the NR is identified from a hierarchical list by an approved mental health professional (AMHP). The AMHP goes through the list, which begins with a partner of > 6 months (including civil partners), through children, parents, siblings, grandparents, grandchildren, uncles or aunts and nephews or nieces, until a person aged > 18 years and resident in the UK is identified. The nature of the personal relationship of that individual to the service user is not considered, leading to the potential for 'unsuitable' individuals to be appointed (e.g. living far away, poor relationship with service user, unfamiliar with the service user's needs and wishes regarding their treatment). Given that the NR is privy to sensitive information about the service user, eligible to make decisions about care and is the lead point of contact with mental health professionals, significant disruption to the support the service user receives may occur if an inappropriate person is appointed in this role. Because of the potential disruption to care and resulting distress to the service user, the opportunity for service users to apply to 'displace' (i.e. change) the person who is assigned NR is possible. This happens through application to the County Courts and was incorporated into the 2007 amendments to the MHA 1983.

There is an alternative to the NR role currently in use within the UK. In Scotland, the Mental Health (Care and Treatment) (Scotland) Act 2003 (MHCT) introduced the 'Named Person' (NP) role as an alternative provision to the NR. The NP can be nominated by the service user and relatively easily displaced via a written declaration. However, the NP has fewer rights and powers than the NR.

In 2017, the government outlined its intention to commission an independent review of the MHA 1983. To inform the independent review of the MHA 1983, this systematic review was commissioned by the Department of Health and Social Care (DHSC) in January 2018 to explore how the legislation is being used in practice and examine its impact on service users, families and carers.

## Objectives

The aim of this systematic review was to summarise and synthesise experiences of the NR provisions of the MHA 1983 from the perspectives of service users, family members, carers and relevant professionals. More specifically, it aimed to gather research evidence to answer the following question: what are the experiences of services users, family members, carers and relevant professionals of the use of the NR provisions in the compulsory detention and ongoing care of people under the MHA 1983?

This included five objectives from the perspective of service users, family members, carers and relevant professionals. These were to explore:

1. experiences relating to the identification of the NR in the care of an individual who has been compulsorily detained under the MHA 1983
2. experiences of requesting displacement of the assigned NR, including the process of going through a tribunal and issues associated with this, such as influences on ongoing care
3. issues relating to service user confidentiality and information-sharing, relating to all aspects of compulsory detention
4. issues relating to decisions about care during detention and after discharge, including discharge to a community treatment order (CTO)
5. issues relating to service users having access to support from individuals who they want to be involved with or informed about their care.

## Methods

This was a rapid systematic review conducted in 6 weeks. We searched seven bibliographic databases: MEDLINE (via Ovid), MEDLINE In-Process & Other Non-Indexed Citations (via Ovid), PsycINFO (via Ovid), Social Policy and Practice (via Ovid), Health Management Information Consortium (via Ovid), Cumulative Index to Nursing and Allied Health Literature (via EBSCO*host*) and Applied Social Sciences Index and Abstracts (via ProQuest). Citation searching of included sources, relevant reviews and websites was also conducted, which, in addition to author contact, enabled the identification of relevant grey literature.

We searched for qualitative research and survey evidence from the UK published after 1998 and pertaining to the experiences of those involved in compulsory detention under the MHA 1983 (or UK variants, including the MHCT). Studies relating to the experiences of the NR provision for individuals detained under the criminal pathway were not included in this review. We considered the perspectives of service users, carers, family members, NRs/NPs, mental health professionals, policy-makers and legal professionals.

Study selection, data extraction and critical appraisal were completed independently by two reviewers, with disagreements resolved by discussion or referral to a third reviewer. Owing to time restrictions, data were extracted, critically appraised and entered into a framework synthesis from only the studies that included the greatest quantity of qualitative data. This was a pragmatic step that considered both the quality and the quantity of relevant evidence available in each record, such that those containing several paragraphs or more of relevant data were prioritised. The key characteristics of non-prioritised studies were data extracted, described and tabulated. Critical appraisal was not used to exclude any sources of evidence.

Given the time available, a pragmatic decision was made to undertake a framework synthesis, which involved four stages. First, relevant data extracted from prioritised studies were entered into a framework that had been developed based on the five research objectives. In the second stage of synthesis, the studies that contributed the most data across all five research objectives were then searched for themes pertaining to each research objective. The studies contributing the most relevant data were then explored for relevant themes, which were then used to refine the framework. Finally, the content of each of the preliminary themes was examined and subthemes were developed using an inductive, iterative approach. The relationships between these themes were then described.

## Findings

In total, 35 papers and reports met our inclusion criteria, reporting on 20 studies. Of these, 12 studies were prioritised for inclusion in the framework synthesis, although the majority of evidence was supplied by seven studies. The prioritised studies included two PhD theses and four reports for government.

The rest were peer-reviewed journal articles. Only one study was conducted in Northern Ireland, and three Scottish studies reported on experiences of the NP provisions of the MHCT. The evidence from England was spread across eight studies, although only half were published after the 2007 amendments to the MHA 1983. Sample sizes ranged from 21 to 115 interview participants. All top-tier studies utilised interview techniques to collect data, with some using supplementary questionnaires with open responses ($n = 3$), observation of group discussions ($n = 2$) and workshops or group exercises ($n = 3$).

Four themes emerged from the framework synthesis: (1) issues regarding the identification of the NR/NP, (2) confidentiality and information-sharing, (3) enabling the use of the NR/NP role and (4) importance of maintaining relationships. The first two of these themes were more descriptive, mapping onto our research objectives, whereas the second two themes were more interpretative.

The first theme (issues regarding the identification of the NR/NP) explored how the hierarchical nature of the NR provision in England can leave service users vulnerable to abuse and biased care, and how the NR provision in England is not always representative of the home and family circumstances of service users and their carers, which may mean that the NR role may be assigned to someone who is not involved with the care of the service user. Experiences of both the NR provision in England and the NP provision in Scotland indicate that the current legislation does not fully support the needs of individuals who do not have and/or do not wish to have an identified NR/NP.

Experience of the NP provision in Scotland suggests that it may be beneficial to be able to allocate a friend or carer of the service user's choice. Although legislative amendments in Scotland now allow people to opt for no NP, we found no evidence that focused on the relative merits and drawbacks of this approach.

The second theme (confidentiality and information-sharing) explored the value of confidentiality to both service users and carers, alongside the sometimes conflicting need for professionals and carers to share information with each other about the service user and their care. There were examples of professionals working flexibly with carers to ensure that the carers had access to the support they needed, while respecting the service user's right to privacy. Several instances regarding the need for professionals to consider the wider family context of the service user when sharing information were highlighted. Service users also valued the opportunity to exercise their right to withhold certain information from their NR or carer.

Carers indicated that they would like to improve the processes that would enable them to discuss information about a service user with professionals. They highlighted that, although they wanted to be able to provide information, they did not always want the patient to know about these conversations through fear of damaging their relationship.

The third theme (enabling use of the NR/NP role) explored ways in which all stakeholders can be supported to make full use of the NR provisions of the MHA 1983. The research evidence suggests that the role of the NR or NP is complex and may be poorly understood by service users, carers and professionals alike. It shows how the NR provision supports carers and service users to have their say during an involuntary admission, the type of information that carers, NRs and professionals need so that they can effectively support the service user, and the support that professionals can provide to help carers and service users to make use of the information they are given. Being recognised as the NR or NP also enables carers to offer support to the service user through their improved awareness of their rights under the provisions and the recognition of these by professionals.

The fourth theme (importance of maintaining relationships) was considered to underpin the other three themes, and explored relationships between service users and carers, service users and professionals, and carers and professionals. The quality of these relationships may influence the balance between protecting the service user's confidentiality and information-sharing as discussed within the second theme, and also empower service users and carers and thus act as a protective factor against abuse of the service user and carer burnout.

The experience of being compulsorily detained places strain on these relationships. There was evidence of experience of a heavy responsibility on carers or the NR/NP, especially when the primary carer is also the NR. Disagreements over treatment decisions, carers feeling ignored and conflicts with mental health professionals are some of the ways in which relationships can be placed under significant strain. However, there were positive reflections on instances when professionals worked closely with carers to optimise the care that service users received.

## Strengths and limitations

The findings of this review are primarily limited by the lack of available, up-to-date evidence from rigorously conducted studies. In particular, the included studies were from quite specific localities and health services, so they may not be strongly representative of the broader population experiencing or providing care to individuals compulsorily detained under the MHA 1983 in 2018. Although similar experiences were seen across studies, the entire synthesis was based on only 12 studies. Lack of clarity in the reporting of rigour in the collection and analysis of data further limits conclusions. Evidence relating to experiences of the NR provisions since the MHA 1983 was amended in 2007 was particularly lacking. At best, findings may be considered indicative of issues with the legislation in England and Scotland that may be experienced by service users and carers.

The review was rigorously conducted in line with published guidelines, despite the short timescale; however, a more in-depth, iterative thematic analysis of all the included studies may have elicited more information about the mechanisms underpinning the issues around the NR provisions.

## Conclusions

This rapid review synthesised qualitative evidence regarding the experiences of various stakeholders involved in the involuntary detention of individuals for the assessment or treatment of mental health problems. This included those with experience of the NR provisions of the MHA 1983 in England and the NP provisions of the MHCT in Scotland. We identified a number of common experiences across our 12 included studies. Given the modest number of study participants involved, and how and when they were sampled, the findings should be considered as plausible examples or indicators of experiences of the MHA 1983 and related professional practice, rather than a current or totally representative picture of all views and/or practice across the UK.

The synthesis highlighted the importance of the NR role and the responsibility associated with it, indicating the importance of the right person being identified for the role. Scottish service users valued the ability to nominate their NP and to easily displace them if needed. However, there was a risk that this power could be exercised too freely, potentially damaging relationships with carers and/or friends. Understanding and communication of the rights, powers and responsibilities of the NR or NP by professionals was considered poor by some service users and carers. It was also suggested that professionals are well placed to improve care by improving their communication with service users and carers, and offering carers emotional and informational support.

The main findings of this review are that the topic of the NR provisions of the MHA 1983 is complex, of significant importance to individuals detained under the Act and their carers and has not been studied in great detail to date. In order to better understand the NR provisions of the MHA 1983 and their influence on individuals involved in their application, more high-quality primary research must be undertaken that is specifically focused on the perceived and actual use and impact of the NR provisions. There is a need for investigation to take place across all relevant population groups. In particular, we recommend:

- Examination of experiences of the NR/NP in the light of the most recent legislative changes throughout the UK.
- Further research in all areas of the UK. Northern Ireland and Wales were particularly under-represented. The three studies from Scotland should be supplemented by non-government reports. In England, most of the useful evidence arose from a very small number of studies, and none of these had been conducted since key legislative amendments were made in 2007.
- Consideration of the experiences of those who are not married or in a civil partnership.
- Better representation of the views of mental health professionals and advocates.
- Greater evidence relating to the specific experiences of the NR/NP provisions from the perspective of ethnic minorities.
- Qualitative methods to be the most appropriate means of eliciting data about experiences of the NR/NP provisions of the MHA 1983 and MHCT. However, reporting of methodological considerations should be improved.

## Study registration

This study is registered as PROSPERO CRD42018088237.

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